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THE COLONIAL PERIOD

BY

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PREFACE

No attempt has been made in this volume to write a history of the individual colonies or to present in any form a narrative of the events of colonial history. Many familiar details have been omitted and all military undertakings in which the colonists were engaged have been passed over with very little comment.

In dealing with colonial history in general, three factors stand out for conspicuous treatment: the mother country, the colonies, and the relations between them. It has been customary in the past, when writing of the colonial period of American history, to minimize the importance of the first and last factors, and to lay stress, at least until the period of the Revolution is reached, upon the colonies, their institutions, and life. I believe that the balance should be restored, and that if we are to understand the colonies, not only at the time of their *revolt*, but *also* throughout their history

from the beginning, we must study the policy and administration at home and follow continuously the efforts which were made, on the side of Great Britain to hold the colonies in a state of dependence and on the side of the colonies to obtain a more or less complete control of their own affairs. Upon this belief I have acted in planning the arrangement of this book. Two chapters are devoted to England, two to the colonies, and the remainder to the mutual relationship, as seen in the settlements, in the struggle for independence of royal prerogative and acts of parliament, and in the movement looking to eventual union among the colonies themselves. While this form of treatment eliminates some of the dramatic features of our early history, it is the only treatment that will enable us to understand the events of the period from 1765 to 1775, events which lie outside the scope of this work.

My further purpose has been to deal with the colonies in large measure from the vantage ground of their origin. To write as one standing among them and viewing them at close range is to crowd the picture and to destroy the perspective. We must study

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the colonies from some point outside of themselves, and to the scholar there is only one point of observation, that of the mother country from which they came and to whom they were legally subject.

Furthermore, I have included within my survey not only the original thirteen colonies but those of Canada and the West Indies also. No distinction existed between them in colonial times and none should be made now by the writer on colonial history. To understand the events taking place in one group we must examine to a greater or less extent corresponding events in the others. Only by viewing the colonies as a whole and comparatively can a treatment be avoided which is merely provincial on one side or topical on the other.

CHARLES M. ANDREWS.

APRIL, 1912.

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THE COLONIAL PERIOD

CHAPTER I

COLONIAL SETTLEMENT: FIRST PERIOD, 1607-1640

THE United States of America did not spring full grown into existence nor is its history lost in the mystery of twilight and darkness, as is that of so many of the countries of Europe. It began its career in the full light of day, a career that represented at first merely the activities, on a new ocean and in a new world, of the great maritime states of the west, Spain, France, Holland, and England, no one of whose people ever saw the vision of a great and independent republic on the distant horizon. The United States began as a series of tiny plantations or settlements, many of them centres of trade or agriculture founded for purposes of profit. The small, obscure, and often insignificant groups of adventurers, almost beyond the knowledge of the people of Europe, were established in the mysterious west after many losses and failures, and *were kept alive in the earlier years at great*

expense of corporation and proprietor, few of whom ever received any adequate return in money from the enterprise they had undertaken. No capitalists of modern times ever sank greater fortunes in more profitless expeditions than did the merchants and noblemen of England to whose efforts this great republic in large part owes its origin.

To England alone, of all the civilized powers that bordered on the Atlantic in the seventeenth century, do we trace our descent as a nation. Neither Portugal, Spain, France, nor Holland contributed directly to our settlement, playing the part rather of rivals or enemies and disputing with England the right to use the territory of the New World, this largely unknown and untried world, for its own profit. The years of our settlement were a romantic period, a time of energy and heroism, of bold ventures at sea and exploration on the land, when island and continental colony in that wonderful region of Florida and the West Indies were planted in insecurity and like the frontier posts of western America were maintained amid the constant perils of existence. Along the coast of the Atlantic, from Hudson Bay on the north to the *Amazon on the south*, royalist and parliamenta-

rian, Anglican and Puritan, feudal lord and democratic radical, sea rover and buccaneer, sought to establish settlements that would directly enhance their own fortunes or furnish them with homes, and indirectly redound to the glory of God, the discomfiture of the enemy, and the good of the realm, and serve as strategic centres in the conflict for supremacy with the other powers of Europe. In the south England disputed and fought with Frenchman and Spaniard and Dutchman, in the centre with Dutchman and Swede, and in the north, from Hudson Bay and Nova Scotia and the fishing banks of Newfoundland to the great lakes of the interior, with France, her greatest and most tenacious rival. Should France, whose strength lay in her military forts and trading centres, win control of the great rivers, the Hudson, the Ohio, and the Mississippi, she would be able to cut off the English expansion westward and so check and eventually destroy altogether the British advance in America.

Thus at the beginning the American colonies formed but a part, and comparatively speaking but a small part, of that great *western frontier* of the European *nations, made up of water, islands, and con-*

continent, that stretched from Hudson Bay to the northern coast of South America. No romance of later days in our great West can surpass the tales of adventure and suffering that accompanied the voyages for discovery and plunder and the enterprises for commercial profit that were promoted during the early years of the seventeenth century. It was not the activities of the Elizabethan seamen that founded our plantations and colonies, but the commercial ambitions of the noblemen, merchants, and capitalists during the reigns of the Stuarts. They saw in the New World great opportunities for wealth, such as earlier companies had seen in the Mediterranean and the Baltic. With very few exceptions the British colonies in America were founded for commercial purposes, and even those, the original motive for which was religious or philanthropic, had in most cases a commercial aspect. The years from 1607 to 1640 were a time of superb endurance, not only of those who sought new homes for the sake of religion, but also of the less heavenly minded adventurers who aimed at booty and profit. We can but admire the activities of those days and the lust of commercial enthusiasm and religious *zeal that provoked men to journey thou-*

sands of miles, over stormy seas, in small and badly equipped vessels, into a largely unknown world, to seek, not so much mines of gold and silver, though that allurements was rarely wanting, but the almost equally elusive hope of wealth from tropical trade.

The English settlements in America were in number more than thirty, if we count every form of foothold which Englishmen obtained in the western world. They stretched from Hudson Bay to British Guiana, including within these extreme limits such portions of Canada, the United States, and the West Indies as were claimed or occupied by English settlers.

In the far north lay the forts of the Hudson's Bay Company, where agents, factors, and hunters shot and trapped fur-bearing animals and sent hundreds of thousands of skins to England every year. In that desolate region there was constant quarrelling with the French who lived along the St. Lawrence and claimed important parts of the territory. Seizures of British forts, particularly at the close of the seventeenth century, led to serious complications with England and to bitter debates which were not ended even with the signing of the *treaty of Utrecht* in 1713, the company *continuing to present its demands for com-*

pensation on into the second half of the eighteenth century. South and east of the Hudson Bay territory was Labrador, a barren tract of land with but few inhabitants, productive of a few beaver and other skins, and practically unknown to the colonists before the middle of the eighteenth century when an effort was made to incorporate a company to trade there. A few years later the Moravians began their self-sacrificing labors in the territory.

Across from Labrador was the great island of Newfoundland, occupied and governed by England, but never strictly speaking included among her colonies, the only real value of which lay in the fisheries off her coast. This debatable ground, a poor country and never of much commercial value in itself, was a rich mine of wealth because of the fish that were caught there, and a very important field of action for the New Englanders who brought provisions and especially rum, which the English authorities deemed "very pernicious to the fishery," and by promises of great wages enticed away fishermen from the banks to serve on their own vessels. Newfoundland, too, was *a perpetual* source of strife between *England and France* in colonial times and has

remained a subject of dispute until very recent years. On the southern side of the Gulf of St. Lawrence were three regions, also objects of continual conflict with France, Cape Breton, St. John or Prince Edward Island, and Nova Scotia. There England retained a precarious footing and there the tide of control ebbed and flowed, until, in that great battle on the Heights of Abraham in 1759, England won the victory that led to the overthrow of France in America and to the founding of what has become today the powerful self-governing dominion of Canada.

Passing further southward, through dense forests by way of rivers and chains of lakes, we reach that territory which is today the United States, but which was then but sparsely occupied along the sea coast and back by way of the rivers into the interior. The colonies of New England became eventually four in number, New Hampshire, Massachusetts, Rhode Island, and Connecticut, the original settlements of Plymouth, Saybrook, and New Haven having been absorbed and the land of Maine forming a part of Massachusetts. Over the border of New England to the southwestward was New York, *seized* not very honorably from the Dutch in 1664. With New England we

meet with the first group of the thirteen colonies that declared their independence of the mother country in 1776 and with the aid of France won the victory in the years from 1776 to 1783. Below New York in geographical order were New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and the two Carolinas, and still farther south was Georgia, the last of the thirteen colonies, first settled in 1732. Along the Gulf of Mexico were the two Floridas which England held for only twenty years, 1763-1783, but long enough to involve her in a very complicated inquiry regarding the land claims of the settlers. The Floridas were given back to Spain in 1783 and did not become a part of the United States until 1810 and 1819. Portions of the middle colonies, Pennsylvania, New Jersey, and Delaware were wrested from the Dutch, who had already despoiled the Swedes of their colony; some of the southern colonies were occupied in the face of stern Spanish opposition; and among the lowlands of the Carolinas, Georgia, and the Floridas conflicts with Spanish settlers aroused intense feelings of hatred, and led to many attacks and counter-attacks, at Port Royal, Savannah, and St. Augustine, in which *the religious and race differences only made*

more bitter the struggle for leadership and control in the New World.

But more strenuous even than the encounters with French, Spanish, Dutch, and Swedes on the mainland were the exciting scenes of warfare that were enacted in the West Indies. The island colonies of England consisted of Bermuda, lying in the middle of the North Atlantic and originally a part of the territory of the Virginia Company of London, the Bahamas off the southern coast of North America bending away to the southeast, and the West Indies proper running in a curve from Jamaica to Barbadoes. First and largest was Jamaica, captured from Spain in 1655 by the famous fleet which Cromwell sent out in 1654 to weaken the Spanish power in the southwest. Beyond were the Caribbee Islands, divided into the Leeward and Windward groups, some ten or more in all, and finally Barbadoes, one of the earliest to be settled and one of the most important that England possessed in that part of the world. Lastly, England placed her foot once more on the mainland and seizing lands which the Dutch had controlled — Essequibo, Demerara, and Berbice — founded her *colony of British Guiana*, the only colony which she ever possessed in South America.

Thus the long chain of British colonies and possessions, stretching south from the frozen waters of Hudson Bay, ended in that picturesque group of rocky islands in the tropical West Indies and in that solitary land of Guiana, in a world where French, Spanish, Danes, and Dutch all claimed their share, and where many of the islands passed back and forth between the powers as one or the other showed itself strong enough to seize them. In the years before 1660 the hostility of Englishman for Spaniard was as great as ever it had been in the days of Elizabeth and the Armada, but the struggle was fought on the Spanish Main and not off Cadiz or in the English Channel. In the later period France shared with Spain the position of great protagonist. The West Indies during our colonial era were the scene of some of the most varied and tempestuous struggles that we meet with anywhere in the New World. Here the navies fought many famous sea-battles; here islands were wrested at heavy cost of men and money, only to be rendered neutral or handed back with the signing of new treaties; here pirates and privateers found favorable opportunities for their livelihood, until it could be *said that it was more dangerous for a mer-*

chant ship to sail from one island to another than it was to sail to England, and that at certain periods at least one vessel in three was liable to be captured and plundered; and here during the War of Independence the privateersmen of the colonies performed their work with such signal success that insurance rates in England approached those of a foreign war, and British merchantmen were allowed to carry more arms and ammunition than the orders in council allowed.

The colonies that have thus been mentioned in brief geographical outline were not founded at the same time or under the same circumstances. They were founded at different times and under a great variety of circumstances. In narrating these circumstances we shall follow, not only the history of America during the seventeenth century, but the history of England also. The seventeenth century was the great era of colonization in the history of England, just as it was the great period of conflict between the royal prerogative represented by the Stuart kings and the demands of parliament as stated and urged by the more progressive and radical members of that body. The period of *colonization begins with 1607 and closes with 1682. Between those dates all but one*

of the settlements were established from which grew the United States of America. We may divide the period into two parts: first the years from 1607 to 1640; second the years from 1655 to 1670, with the single, and in a measure isolated, settlement of Pennsylvania, 1681-1682, which marked the culmination of the movement. These periods represent the outworking of important commercial, religious, and political influences in England, and each of the settlements in America traces its origin to one or more of these great phases of English life and thought.

At the beginning of the seventeenth century England had become for the first time an independent commercial kingdom, in which trade and commerce were rapidly emerging as the leading interests of England's people. Scores of companies had already been formed during the last years of the reign of Elizabeth and the early years of the reign of King James for the purpose of carrying on trade with foreign countries. According to the accepted policy of the time, a monopoly of trade in a given territory was granted to each of these companies, conceding to it the sole right to traffic in the region named in its charter. Greatest of all *was the East India Company, which laid*

the foundation for the dependency of India, a region governed until 1858 under certain restrictions by this private corporation. Of scarcely less importance were the Levant Company, trading to the eastern Mediterranean, the Muscovy Company trading to Russia, and others which added little by little to England's wealth and commercial importance. When, therefore, the attention of Englishmen had been drawn to the New World and the title of England to a portion of it had been established by the discoveries of John Cabot and others, it was inevitable that companies should be formed to take up land and to trade in the west.

Many of those who were already members of the older companies became interested in western traffic, and in 1606 the first effort was made to obtain a charter for two "Virginia" companies, one the southern in London, the other the northern in Plymouth, to hold land and trade in America. The charter was granted by James I, and in 1607 the London Company sent out its first expedition and founded the first English settlement at Jamestown in Virginia. The second or Plymouth Company failed in its colonizing venture at Sagadahoc and *confined itself to trading voyages, until in 1620*

it was remodelled as the New England Council or Corporation of New England. In 1609 the island of Bermuda was discovered and was originally included within the second grant to the London Company, but later it separated and a subordinate company was formed to settle and govern it. Each of the companies remained in England, there held its meetings, and from there controlled its colony.

At first the settlements both at Jamestown and in Bermuda were but plantations, possessing no self-governing powers of their own. They were governed from England, and in the case of Virginia twelve years elapsed before that plantation was allowed to have a popular assembly elected by the people who lived there. During the earlier years Virginia was little more than a penal and military settlement made up of men who led an almost hopeless existence and were often rendered desperate by famine and disease. Saved from extinction by the leadership of John Smith, who taught the lesson that those who would not work should not eat, and by a providential arrival of supplies, the plantation weathered its first crisis, only to enter under the guidance of Dale a period of military rule, when men went to work almost *with lockstep*, and dug and harvested under

military orders from overseers. Two events laid the permanent foundations for the colony: the granting of self-government in 1619, and the discovery of tobacco as a staple article of commerce, which the company finally accepted, after many attempts to introduce a greater variety of industries, as the sole commodity that would return a profit. During the last years of its existence the London Company, though hopelessly divided into factions and badly mismanaged, sought to become a tobacco company under contract with the crown to supply England with the entire output of the colony. But the control of the company lasted less than twenty years altogether, for in 1624, after a careful inquiry by a royal commission, the charter was annulled because of maladministration by the Sandys party during the preceding four years. Virginia became a royal colony, and so remained throughout the colonial period.

While the Virginia colony was becoming established as a successful commercial venture through the corporate activities of the noblemen, merchants, and liveries of England, a new influence was making itself felt, in part religious and in part political. Already in Queen Elizabeth's time there had arisen radical religious thinkers and teachers

in England, inevitable out-croppings of the Reformation, who were opposed not only to the great Roman church of the west but also to the Anglican organization that had been established by Elizabeth. The more extreme of these Protestants were known as Separatists, because they wished to separate entirely from the Church of England. This body of noble-minded men and women, persecuted during the last years of Elizabeth's reign, first fled to Holland, where they lived for many years, first in Amsterdam and then in Leyden, and finally came to America in 1620. Poor in pocket as they were rich in purpose, they sought aid to enable them to cross the ocean and support themselves in their new home, and obtained from a body of seventy adventurers in England, organized as an unincorporated joint-stock company, the means wherewith to carry out their plan. After a stormy voyage in the Mayflower they landed on the coast of New England, and there amid infinite hardships founded a colony, the colony of the Pilgrims at Plymouth. For seven years they labored to make their undertaking profitable, but as a commercial enterprise it proved a failure, and when the seven years *mentioned in the agreement had expired*

the joint stock was dissolved and the Plymouth settlers assumed the obligations of the company and thenceforth conducted their affairs alone. From the first their government was fundamentally different from that of the plantation in Virginia. They governed themselves without regard to king or company, and thus their settlement became the freest of the colonies planted in America at this early date. Although they had a land patent from the New England Council, they had no charter of incorporation from the crown, and so their right to exist as a government rested on no legal title. For seventy years they continued as a colony, legally weak but morally strong, until they were absorbed in the neighboring commonwealth of Massachusetts, and the land which they occupied is today a part of that state. Though swallowed up by the larger community, the colony of the Pilgrims has exercised a widespread influence upon the political and religious life of the American people.

While the Pilgrims were laying the foundation stones of their colony, a great struggle was beginning in England, and an era of political and religious conflict was ushered in which eventually culminated in the great *Civil War*. During this period of national

unrest a famous migration took place to America, lasting for more than ten years, of many in England who wished to govern and to worship in their own way. They disliked the ecclesiastical and monarchical restraints in England and their eyes were turned to the New World as a refuge where they could live free from the traditions of the past. These Puritans, as they are generally called, organized themselves as a company and obtained a charter from the king, Charles I. At first remaining for a year in England, 1629-1630, they sent over settlers, much as the Virginia Company had done, who established a plantation at Salem in New England. But this Puritan body, the Massachusetts Bay Company, had no intention of following the example of the Virginia and Bermuda companies. In 1630 a majority of its officers with the charter sailed for America and settled at Boston.

By this momentous action the Puritans did more than found a colony, they founded an entirely new type of colony, since for the first time an incorporated company had planted itself on American soil. The corporation became a colony, and the colony rapidly developed into a commonwealth, *sending out offshoots to the north, south, and*

west, that in turn became colonies, governing themselves in much the same way as did Massachusetts, in two cases, Connecticut and Rhode Island, becoming before many years colonies regularly incorporated by the crown. The colony of Massachusetts rose to be the most powerful government in the north, growing rapidly in size, exhibiting intolerance toward all who differed with it in religious practice or political views, and claiming, by the most favorable interpretations of the letter of its charter, territory to the northward that would have included within its boundaries all the settlements at the mouth of the Piscataqua (New Hampshire). Feeling secure in the distance which separated their charter from the authorities at home and encouraged by the successes of the parliamentarians during the period before 1660, the men of Massachusetts assumed an attitude of independence, and were inclined to ignore all royal commands, particularly such as concerned the trade of the colony. So disregarding did they appear to be of the fact that they formed a colony and not a sovereign commonwealth, that in 1684 they were disciplined by the home government, and lost some of the privileges of complete self-control. By a new charter

issued in 1691 Massachusetts, instead of electing its own governor, was required to accept a governor appointed by the king.

Of the two offshoots from Massachusetts that eventually received royal charters, Connecticut and Rhode Island, the latter was founded by Roger Williams, the great exponent of soul liberty and the first man to put into practice the principles of religious toleration. The other, Connecticut, was also a more liberal colony, and both owed their origin to a dislike of the narrow religious and political policy of Massachusetts. At first neither of these colonies had titles to the soil which they occupied and were technically squatters on royal domain, but in 1662 and 1663, through clever diplomacy, they succeeded in obtaining from Charles II the desired recognition which made them legally secure. Forms of government in both colonies were democratic, and represented more nearly the principles which underlie the government of the United States today than any other of the British colonies.

Thus we have five colonies founded under incorporated companies, Bermuda, Virginia, Massachusetts, Connecticut, and Rhode Island. In the first two instances the company *remained in England*, in the others the com-

pany and the colony, being identical, were in America. Of the five, two only were destined to survive. The Virginia and Bermuda companies lost their charters entirely and ceased to exist, and the plantations which they founded became royal colonies; Massachusetts suffered a serious modification of her charter which made her a royal colony, but less royal than the others, inasmuch as the colony retained the right to elect its council and to choose many of its own officials; but Connecticut and Rhode Island preserved their charters intact through the whole colonial period, and were so well content with the governments under which they lived that they adhered to their fundamental law well on into the nineteenth century, Connecticut to 1818 and Rhode Island to 1845. The democratic principles of government, which underlay the life of these two states, were so entirely in accord with the aims and aspirations of the people of that day, that neither Connecticut nor Rhode Island needed to alter its instrument of government until long after the other states, having thrown off their allegiance to Great Britain, set about drafting, in the years from 1776 to 1780, special *constitutions of their own*.

Settlement by incorporated companies was but the earliest form of promoting the founding of colonies in America. Side by side with it went the activities of single proprietors who, like the feudal seigneurs of the Middle Ages, became, or aimed to become, the lords of great colonial territories to which they were to stand as to any fief or estate of land. During this early period many English and Scottish lords and baronets became actively interested in projects of colonization in the west. Chief among them were the Earl of Lennox, Lord Maltravers, Earl of Arundel and Surrey and his son the third earl, the Earl of Carlisle, Sir William Alexander, first Earl of Stirling and his son, Sir James Hamilton and his son, Sir Ferdinando Gorges, and Sir George Calvert. Though a few of the men of this class were royal favorites and courtiers and had no higher aim than to restore fortunes shattered by extravagance, others were men of worth and position, who were legitimately interested in colonization as a source of honor to the country and of profit to themselves. Many were connected with the East India Company, the West India and Amazon companies, and were concerned in the fisheries and the opening of Canada to English

trade. All were leading and active members of the reorganized North Virginia Company, which became the New England Council in 1620; and all, except Calvert, received grants of land in New England on the feudal tenure of holding of the crown by the sword. Though many of them were prevented by circumstances, financial or otherwise, from a successful prosecution of their aims, and so have been in large measure lost sight of as participators in the colonizing movement, yet even those who failed often labored zealously, sacrificing time and fortune to promote settlement and trade, and they deserve a fuller recognition than has been accorded them by writers on British colonization in America.

Lennox died in 1624 and was succeeded by his son, brother-in-law of the younger Maltravers. The younger Lennox accomplished nothing on his own account, but how far he may have coöperated with Maltravers and the Calverts, with whom he was on intimate terms, there is no means of knowing. Hamilton also died early, leaving a claim to the Narragansett territory which gave the Connecticut colony some trouble when revived by his daughter and her husband after the Restoration. Hamilton's fellow Scot,

Sir William Alexander, afterward the Earl of Stirling, the most distinguished and versatile of them all, with a title to half of Maine, eastern Canada, and Long Island, from 1622 to 1630 sent many ship loads of colonists to New Scotland or Nova Scotia, commissioned his son as governor of a plantation at Port Royal, issued an "Encouragement to Colonists," and so firmly established his claim to Long Island that the first settlers there obtained from his agent the titles to their lands. He labored twenty years in the colonial cause, but left no permanent colony behind. His titles in Maine and Nova Scotia served in the eighteenth century to complicate claims to those territories that were already sufficiently confused.

More important, though not in the end more successful as far as posterity was concerned, were the efforts of the elder Maltravers, Earl of Arundel and Surrey, to found a feudal principality south of Virginia. In that region, under a patent granted to Sir Robert Heath in 1629, a settlement of Huguenots had already been attempted in 1630, after the fall of Rochelle, the last Protestant refuge in France. Directed by the *Huguenot* captain, Sancé, and William Boswell, secretary to the Earl of Carlisle, and

carried out by Samuel Vassall, acting for Sir Robert Heath, voyages had been undertaken and colonists provided, but in the end the venture had proved a failure. Purchasing the Heath patent in 1632, Maltravers began to send settlers into the territory, and in 1633 commissioned one Captain Hawley to plant the southern part, constituting him lieutenant governor of "Carolana" with ten thousand acres of land. Similarly he commissioned another sea-captain, Hartwell, to plant the northern part. In 1638 his son received from Governor Harvey of Virginia, acting under instructions from the king, whose earl-marshal the younger Maltravers was, a deed to a tract of land to be known as Norfolk county from the ancestral, but at this time forfeited, title of Norfolk. At considerable expense Maltravers endeavored to settle his territory, planning to make it a base for further colonization southward and the establishment of plantations and trading centres. He continued his preparations and was gathering colonists, military and other, when the campaign against the Scots in 1639, in which he was a general, drew him and his train of followers away from colonial schemes, leaving no trace behind, save the *name of a county in Virginia.*

More fruitful of result were the efforts of the Earl of Carlisle, favorite and spendthrift, who saw in the West Indies a profitable domain from which to replenish an impoverished exchequer. In this world of contradictory grants and conflicting claims, where the French on one side and Sir Thomas Warner on the other had already established themselves at St. Christopher (1623), Sir William Courteen, one of the most prominent capitalists of his time, had endeavored to plant Barbadoes (1624), and Captain Hilton had found a footing on the island of Nevis (1628), the Earl of Carlisle succeeded after much trouble in making good his title, obtained in 1627, and became lord palatine of Barbadoes and adjoining islands. But among these scattered and largely unknown lands, in the face of frequent disputes and rival governors, proprietary control was difficult to maintain. Carlisle, financially embarrassed, died in 1636, handing on his title to his son, who in 1647 leased the profits of the island to that ardent promoter of England's trade and colonization, Lord Willoughby of Parham, who became governor in 1650. Already had constitutional government been introduced into Barbadoes, and the island *early began to prosper in the hands of a*

sturdy and growing population, more than 6,000 in number, of strong royalist proclivities. With Virginia, Maryland, and Bermuda Barbadoes fell under the suspicion of the commonwealth in England, and after a spirited resistance was compelled to capitulate.

But this feudal domain proved to be no palatinate, as was designed by Carlisle's charter of 1627; it had become already a self governing colony, controlled by moderate men, who centred their efforts on the increase of the trade and prosperity of the island. When in 1660 monarchy was restored in England, no colony in America stood higher in England's eyes than this far off island, "the granary of all the Charybbees Isles," and its influence upon the colonies of the continent was marked in many ways. Voyages to and from England were generally made by way of Barbadoes, and intercourse with the colony and emigration from it to the American continent were fairly common occurrences. As early life in the West Indies was essentially unstable, in a world where men ventured from island to island in search of wealth and plunder, so settlers from Barbadoes engaged in frequent wanderings, which led to prolonged disputes and *diplomatic negotiations with France and*

Denmark, that were not settled till nearly the end of the colonial period. England lost in a measure, but gained in greater measure, until the outcome of royal and proprietary effort was the winning of a major control by England of those tropical islands that her merchants valued so highly. Until after the middle of the eighteenth century Englishmen deemed their West Indian colonies the most valuable part of their western possessions.

More noteworthy even than the disputes in the West Indies were the efforts made by Sir Ferdinando Gorges, one of the most picturesque characters in our early colonial history, to erect the lands stretching from Cape Cod northward into a feudal proprietorship. The duel between Gorges and the Puritans was a battle royal, though fought by diplomacy and not by arms. Gorges, like the others, was an aristocrat, a loyal upholder of the Stuarts, and a believer in the royal prerogative. He aspired to create in New England a principality of which he should be the sole and absolute proprietor, with sub-fiefs and private plantations, all under a common governor general of New England. He obtained from the New England *Council for himself* and others the necessary

grants of land, but found himself opposed by the Puritans, who had as their great political friend the powerful Earl of Warwick, also a member of the council. Warwick had been a member of the Virginia, Bermuda, and Amazon companies, and from his vantage point of the New England Council did all that he could to further Puritan settlement, particularly after 1626, when he joined the parliamentary leaders in opposition to the king, and until June, 1632, when he ceased to attend the meetings of the council. Taking advantage of Gorges' absence during the war with France (1625-1629), Warwick aided the Massachusetts Bay Company to obtain its charter, whereby a Puritan wedge was driven through the very heart of Gorges' province. He endeavored to strengthen the position of the Pilgrims at Plymouth and did secure for them titles to their land, but he failed in his effort to procure in their behalf the desired charter of government from the crown.

Warwick's efforts to establish the Puritans in New England were but part of a larger scheme of Puritan colonization, which was promoted by the Puritan leaders in England in the decade from 1630 to 1640. *Fearful of the results of the personal rule of*

Charles I and desiring to secure an additional outpost of refuge should the parliamentary cause be lost in England, Warwick, with Lord Say and Sele, Lord Brooke, Oliver St. John, John Pym and others, organized a company in 1630 for the settlement of Providence Island off the coast of Nicaragua, which they maintained against Spanish opposition for eleven years. When in the years 1634 and 1635 the royal persecution reached its height and the Puritan leaders, under constant suspicion from the crown, saw no hope for themselves at home, they turned their attention to New England, and, disliking the narrowness of the Massachusetts system, established a fortified post against the Stuarts, "a refuge for those oppressed for righteousness sake," at Saybrook, at the mouth of the Connecticut river. This post they retained until the victories of the Long Parliament relieved them of danger, when needing it no longer they sold the land and its patent in 1644 to the settlers of Connecticut.

Thus the plans of the Puritans were as elaborate as those of the royalists, and their control of New England seemed assured. Gorges, claiming that the Massachusetts charter had been "surreptitiously" obtained *and seeing in Puritan success the failure of*

his schemes, fought the Massachusetts Bay Company in every way that he could, and his efforts left a trail of bitter remembrance in New England that lasted through the century. He was aided by Archbishop Laud, who wanted the Anglican Church established in New England, by the king and Privy Council, who by proclamations and orders attempted to prevent the growth of the Puritan colony, and by many allies, among whom was his friend Mason, also a member of the New England Council, who had titles to the territory. But Massachusetts was too strongly intrenched. Charles I was too heavily involved in financial troubles at home, and Gorges himself had insufficient resources and was attended by ill luck in losing those that he had. By 1639 all his efforts had failed, his great proprietary province had shrunk to a portion of the territory of Maine, and during the Civil Wars at home Massachusetts rooted herself firmly as the dominant power in New England. It is a noteworthy fact that the civil struggle in England should have interfered so effectually to prevent the consummation of aristocratic and feudal schemes that might have succeeded had they fallen *on happier and less troubled times. Had*

the Stuarts been as absolute, powerful, and rich as the Tudors, the great palace planned by Inigo Jones might have had a larger result than the present Banqueting Hall in Whitehall, and the Puritans might not have been able to identify themselves, their ideas, and their government so completely with New England.

Of all the aristocratic endeavors of this eventful decade the most successful was the attempt of Sir George Calvert and his son Cecilius to found a palatinate in America. Sir George Calvert, Lord Baltimore, was secretary of state under James I and a co-operator in many commercial ventures, particularly in the east. He stands as a type of the earnest, courageous promoter of his day. Eager to advance colonization that he might benefit his Roman Catholic co-religionists and at the same time find profitable investment for his patrimony, he obtained a charter from the king for a portion of Newfoundland, where a Welsh pioneer, William Vaughan, had already attempted a settlement called Cambriol on the south coast. Repelled by the coldness of the climate and the barrenness of the land there, he sought another charter for land within *the territory north of Virginia, to which he*

gave the name Maryland. Dying before the charter passed the seals, he handed on his plans to his son, who unable to go himself in person sent his brothers, who in 1634 made the first settlement at St. Mary's on Chesapeake Bay. No settlement up to this time so fully represented the spirit and hopes of a single man as did the colony of Maryland represent those of Lord Baltimore. Though a Roman Catholic himself and desiring to find a home for the persecuted followers of his faith, he planned to throw open his colony to Protestants, and his son acting upon his wishes, with the success of the colony in mind and visions of commercial and proprietary profits to come, issued broad-minded instructions for a liberal treatment of all who desired to join in the venture. Though in the civil struggle that took place in the colony afterward we see one result of his mingling of Anglicans, Puritans, and Roman Catholics, nevertheless Maryland became in time one of the noteworthy seats of a vigorous colonial life in America.

Thus by 1640 Virginia and Bermuda, Plymouth, Massachusetts, Connecticut, Rhode Island, Barbadoes, and Maryland were well established, through the efforts either of *incorporated companies* or of single proprietors.

CHAPTER II

SECOND PERIOD, 1655-1682

WITH the year 1640 we reach the end of the first period of colonization. It has been a period characterized by a half unconscious struggle for the control of settlement by the conservative and radical forces in England, working by the same methods of royal grant and incorporation, and promoting their undertakings by means of chartered ships, filled with planters and servants, and plantations controlled from England and run as corporate enterprises on a system of profits. On one side were those who represented feudal practice and tradition, the prerogative, the church, and the influence of landed property and privilege; on the other were the liberals and radicals in church and state with definite ideas regarding ecclesiastical organization and political government, and who won the day partly because events in England were unfavorable to successful efforts on the part of the adherents of the king, and partly because those who sought for permanent *homes* proved better colonizers than those

whose chief aim was to promote plantations for personal pride and commercial advantage.

The second period of colonization differs from the first in certain fundamental characteristics. Religious conflicts were passing away; except for the Quakers the Restoration laws against the Dissenters were very lightly enforced. Political questions, conspicuous though they were, had been in large part answered in the work of the Long Parliament and the experiments of the Cromwellian period. Other issues were crowding to the front. Trade, industry, and the commercial dominance of England were becoming the most absorbing questions of the day, and men, notably the merchants and statesmen, were thinking anew about England's wealth, were watching with concern the rapid rise of Holland as a commercial power, and were studying as never before the opportunities which foreign and colonial trade offered. They looked to the West Indies, and saw in them new centres of industrial and commercial activity, and their imaginations were fired with enthusiasm for America as a source of wealth. Returning colonists from Barbadoes, sea-captains familiar with trade routes and the *products of the plantations*, merchants with

grievances against the Dutch and the Spaniards, urged on the government, whether of Cromwell or Charles II, to coöperate in the advancement and better organization of trade and foreign plantations. And to the royalists impoverished by exile, and to the king whose business it was to pay the expenses of running the kingdom from a treasury never too well filled, the importance of a favorable balance of trade, revenues from customs, and freedom from dependence upon other nations for staple products, appealed with tremendous force.

In 1655 the Cromwellian fleet under Admiral Penn and General Venables seized Jamaica, and the island, organized first under military and then under civil rule as a royal colony, opened a new world of opportunities to Englishmen, and hundreds, encouraged by royal proclamations, flocked thither and took up land. During the next five years efforts were made to organize companies for the settlement of "Florida" and for trade in Spanish waters, but the disordered and uncertain political situation at home dislocated business and led to their failure. After the return of Charles II, in 1660, new attempts were made to *systematize more effectually* trade and plantation

control, and councils were appointed to take these matters under their immediate direction. Charles II and his advisers, looking on the Dutch as a menace to English commercial expansion and their possession of New Amsterdam as an injury to English trade with the colonies, seized the territory in 1664 and renaming it New York handed it over as a propriety to the Duke of York, brother of the king. The grant to the duke included also that portion of the territory of Maine which had been patented to the Earl of Stirling, and also the lands south of New York on the east side of the Delaware river, hitherto unoccupied save by Dutch in the north and Swedes and Dutch in the southern part. For the first time the English controlled the coast line from Pemaquid to the Cape Fear river.

Associated with the Duke of York was a group of men who had either accompanied the Stuarts during their exile or, serving under the Protectorate, had joined the king on his return to England. Royalists though they were and representative of the nobility of their day, they differed in many respects from those of the earlier period, particularly in a certain modernness of *attitude toward colonization, bred of ex-*

perience and knowledge of previous failures and of a wider understanding of the kind of government that should be established if settlement were to be successfully accomplished. They realized that colonists must be attracted by liberal concessions and not treated as dependent serfs, and the experience of Barbadoes, where existed freedom of conscience, assemblies voluntarily elected, and the right of law making, aided the new proprietors in determining their attitude toward those who planted their lands. Indeed it is probably true that the Barbadians themselves had an important part in shaping the first fundamental agreements made by the proprietaries with the settlers of the new territories.

Immediately after receiving the grant from his brother, the king, the Duke of York handed over that portion of it which lay between the Hudson and the Delaware to two of his most faithful friends, Sir George Carteret, who in 1650 had turned out his own family from his castle in the isle of Jersey to make room for the duke and his retainers, and Sir John Berkeley, who had lost by the king's grant the £3500 which he had spent in 1662 in purchasing the Earl of Stirling's rights in Long Island. Shortly

before, Charles II, acting under the influence of men seriously interested in opening up the unoccupied portions of North America to trade, had granted the territory south of Virginia, which had been in part the scene of Maltravers' activity, to eight men, nobles and members of government, the Earl of Clarendon, Earl of Craven, Duke of Albemarle (who as General Monck had aided in the king's restoration), Sir Anthony Ashley Cooper (Lord Ashley and afterward Earl of Shaftesbury), Sir George Carteret and Sir John Berkeley (patentees of New Jersey), Sir William Berkeley (governor of Virginia and recently in England), and Sir John Colleton (from Barbadoes, also at this time in England). These men were no mere court favorites, but were all interested in using their grants for the welfare of themselves and of England, and many of them were active and efficient promoters of the commercial prosperity of the country. Thus arose a new form of proprietary control, in which a group of men combined together as joint proprietors owning the land and controlling the colony, not in the interest of religion or politics but of trade.

But the new system of proprietary control, *represented by the Jerseys, the Carolinas,*

and the Bahamas, did not prove a successful form of colonial enterprise. There were too many proprietors interested as land holders in the development of their proprietries. In this respect New Jersey had an extraordinary career. Held by Carteret and Berkeley in joint ownership for ten years, 1664-1674, it was finally divided into two parts, after Berkeley, wearying of his proprietary obligations, had sold out to a Quaker, Edward Byllynge, who in turn conveyed his rights to William Penn and two other distinguished members of the Society of Friends. The northern part, controlled by Carteret, was known as East New Jersey, the southern, controlled by the Quakers, as West New Jersey. Before the division joint proprietary control had centred chiefly in the north, where political confusion reigned during the early period, largely owing to the presence of New Englanders, who had settled the towns of Elizabeth and Newark and resented the attempt of the proprietary governor to assert his authority or to enforce the half feudal rights of the proprietors. Carteret died in 1679, and in 1680 his executors put up his rights at auction and sold them for £3400 to twelve Quakers, who associated *with themselves* twelve others. Efforts were

made to build up the colony, but without much success, and in 1688 the twenty-four gave up their title to the government, but resumed it again after 1689. Still they could not agree, quarrels became frequent, particularly regarding land titles, and finally in 1702 the English government compelled them to surrender their rights of government permanently to the crown, leaving to them only the title to the soil.

In West New Jersey there were fewer proprietaries and matters went more smoothly. Settlement was promoted by the Quakers and the town of Burlington was founded in 1677. A very interesting and liberal form of government was provided and continued for ten years, when Byllynge died and transferred his claim to a famous land promoter, Dr. Coxe in England. But he in 1691 conveyed the government to the West Jersey Society, a body of forty-eight proprietors. Thus before 1702 East and West Jersey were in reality in the hands of two land companies, who paid more attention to their landed rights than to the building up of strong government. Quaker control in West New Jersey came to an end with the advent of the West Jersey Society, and though *settlers came in from New York, Long Island,*

and New England, the situation became increasingly unsatisfactory, and in 1702 the society, though retaining its title to the soil, surrendered the colony to the crown. The two colonies, united under royal rule, remained the royal colony of New Jersey to the end of the colonial period.

New York, in the meantime, had entered on its career as a proprietary colony under the Duke of York, and for eighteen years, barring the brief period, 1673-1674, when the Dutch recaptured the colony, was governed as a conquered province by a series of able appointees, Nicolls, Lovelace, Andros, and Dongan, without popular coöperation of any kind. Though the government was not oppressive, colonial discontent was manifest, and finally in 1682, Dongan was instructed by the duke to call a popular assembly. This body drafted a "Charter of Liberties," but before the document could receive ducal ratification the situation in England had changed, James, the duke, had become James II, the king. What the duke seemed willing to concede, the king refused to grant, and the colony returned to its former condition of autocratic control. Not until after the revolution of 1688 and the overthrow of *James II* was a regular form of popular

government established and an assembly called, which met for the first time in 1691. From this time forward a representative body of the people convened regularly and proved a vigorous and determined agent in its efforts to increase the powers of the popular element. From 1685 to the end of the colonial period New York was a royal colony.

More interesting than the settlement and history of the Jerseys and more significant in many particulars than that of New York, were the circumstances which led to the founding of the colonies of the Carolinas and the Bahamas, for both were representative of a common movement. Of all the proprietaries of the Carolinas the most energetic was Anthony Ashley Cooper, afterward the Earl of Shaftesbury, one of the most important promoters of colonial settlement and policy. He worked in combination with many men familiar with colonial affairs, and, thoroughly convinced of the importance of the colonies for trade, he spent four or five years in endeavoring to build up these settlements. His ally and secretary was the philosopher John Locke, who threw himself with great enthusiasm into the colonial scheme and was probably as much interested in trade as he *was in the human understanding.*

After the first efforts of the Carolina proprietors, during the years from 1666 to 1669, had proved a failure, Ashley, himself one of the patentees, took the matter in hand and became a colonial promoter on a large scale. With others he formed a company which received a grant of the Bahamas in 1670, and he began to send over colonists, with the intention of organizing Carolina and the Bahamas as strong centres of trade and commerce. Charleston was founded not far from the spot where it now stands, and the settlement grew in numbers. New Providence in the Bahamas was also founded, and further settlement was planned to the southward of Charleston. Already was Albemarle in the north fairly started on its way through the influx of settlers from Virginia, and Ashley hoped to make the four colonies centres of a system of coöperative activity and trade. Already had Locke drawn up a constitution for the new settlements, an extraordinary document, embodying elaborate rules based on feudal law touching the division and holding of land and providing for an hereditary nobility of landgraves and casiques, and already had Ashley, made Earl of Shaftesbury in 1672 and president of *the joint board of trade and plantations ap-*

pointed in the same year, infused new life into the system of colonial control in England. For four years, 1670-1674, both these men labored to settle and stock their colonies, to provide for a suitable form of government, and to furnish an efficient system of colonial administration in England. But their plans were doomed to failure. The constitution proved, as would be anticipated, an unworkable scheme for an infant colony, and though it continued for twenty years to vex the settlers it was eventually abandoned, while the group of trading centres proved equally barren of results. In England, though Shaftesbury remained at the head of the council till 1674, he eventually fell from power, and all plans for colonial development were given up in the political confusion that followed. Despite so many apparent failures Shaftesbury must be considered one of the greatest among our colonial founders, and one who in his management of colonial affairs in England placed the British colonial policy on a broader and more comprehensive foundation than had hitherto been laid. To him more than to anyone else do North and South Carolina and the Bahamas owe their being.

These colonies continued under their re-

spective bodies of proprietors for many years. In South Carolina a prolonged conflict took place between the colonists and the proprietors regarding the constitution and the landed claims which ended in part in a popular victory, only to be followed by further disputes concerning religious and military affairs. In fact, rule by proprietors was proving, here as elsewhere, hopelessly out of touch with the sentiments and needs of the colonies. The popular assembly steadily encroached on proprietary prerogative until under pressure from the crown on one side and the popular assembly on the other the proprietaries surrendered their colony, though it was ten years before the charter was actually annulled. Similarly in North Carolina the crown, because of the great disorders and distractions of proprietary rule with its irregular and confused methods of government, demanded the surrender of the colony and it too was taken under the king's immediate protection and government in 1729.

The Bahamas passed through even a stormier history, becoming little more than a rendezvous for pirates until 1718, when under Gov. Woodes Rogers, himself half a buccaneer, a semblance of order was obtained. But settlement was very slow, and,

with no adequate system of popular government and no sufficient means of defence, the colony remained the most backward of all the West Indies. Roused by reports of the bad state and condition of the islands the British government purchased the rights of the proprietors, and the Bahamas became a royal colony in 1734. Thus all the colonies settled under groups of proprietors — the Jerseys, Carolinas, and Bahamas — illustrate in a striking manner the inefficiency of joint proprietary control. All became seats of anarchy and misrule so glaring as to demand in the interest of imperial trade and defence the interference of the crown.

In the end but two proprietary governments survived, those of Maryland and Pennsylvania. The reasons for their survival are not far to seek. Each was a colony under a single proprietary, who took a deep personal interest in his province and at one time or another, in the person of the original grantee or his successors, was present in the territory. In the main the relations were friendly, and the respective proprietary families considered to a high degree the welfare of their people. Inevitably there were disagreements, serious disagreements, between the popular and *proprietary parties* in the colonies, but pro-

proprietary rule never provoked anarchy or lawlessness. Though each proprietor lost his colony for a time, he was able to weather the storm, and all the efforts of the English authorities to bring these governments under the crown in the eighteenth century ended in failure. Maryland and Pennsylvania remained under their proprietary families until the outbreak of the Revolution.

The founding of Pennsylvania was due to the activities of William Penn and the Quakers. Just as at the beginning of the century Pilgrims, Puritans, and Roman Catholics had sought America for religious or political reasons, so after 1660 and the passage of the laws against Dissenters — commonly known as the Clarendon Code — the Quakers found themselves persecuted and oppressed. Fantastic and extreme in many of their attitudes they roused opposition in England, and when they came to America were hounded from colony to colony without sympathy and without peace. Only in Rhode Island did they find a congenial resting place, and there they became leaders of government and influential members of the community. In the Jerseys also they shared in the control and development of the colony. *But during the years from 1672 to 1682 the*

Quakers wanted a home of their own, and thus it was that William Penn, son of the Admiral Penn, who conducted Cromwell's expedition to the West Indies in 1654, petitioned the king for a grant of land in America. Despite much opposition on the part of those officially interested in the management of the colonies, who thought that too many independent settlements had already been established in America, Penn obtained the grant that he asked for. He was a friend of the Stuarts and had a claim upon the royal bounty. The only available territory along the coast was that which lay between New York and the Jerseys on the north and Maryland on the south, and in this quarter Penn founded his colony.

Wishing to try a new and holy experiment, he and his fellow colonists set sail from England in September, 1682, and six weeks later landed on the banks of the Delaware. His city, Philadelphia, the city of brotherly love, had already been laid out by fore-runners, who had preceded him, and soon rose to be a stately town of houses and cottages. The city and towns in the surrounding country were soon settled by a remarkably cosmopolitan population of English, Irish, and Welsh Quakers, German Mennonites,

Danes, and Scots, while there already were in the colony on his arrival probably between 600 and 1000 Swedes, Finns, and Dutch with prosperous plantations. The colony of Pennsylvania early expanded into a stately commercial commonwealth, at peace with the Indians and engaged in extensive commercial relations with other colonies on the American continent and in the West Indies. But it was rarely at peace within itself or with its neighbors. For many years it was the centre of differences of opinion and persistent disputes. Noble man that Penn was, he lacked a certain common and practical sense that might have smoothed over many difficulties. He was confronted by quarrels among his own settlers in Philadelphia, was opposed by the Anglican church and the royal officials in America, and had long and bitter controversies with Maryland on the south and New York on the north, over their respective boundaries, that were not settled for eighty years. As the sole proprietor of his province, Penn wished to make his venture financially profitable. He endeavored to extend his northern boundary to include the great fur-bearing regions of the northwest and the *southern to embrace the Delaware river and*

bay that he might obtain a commercial outlet to the ocean. He lost the northern area in his controversy with New York, but he gained the outlet to the ocean and the control over the three lower counties, now the state of Delaware, in the controversy with Maryland.

Thus with the founding of Pennsylvania all the colonies, save Georgia only, were firmly settled before the close of the seventeenth century. Undertaken in all cases, ^{Sumner} save that of Jamaica, by private individuals, companies, joint proprietors, or single proprietors, all except four had become royal colonies before the first third of the eighteenth century had passed away. After 1700 many attempts were made to unite all the corporate and proprietary colonies to the crown, but without success. Though always striving to bring all the colonies to one uniform royal type and so to consolidate her imperial control, England never succeeded in her effort.

The colonists were not conservative, satisfied, and prosperous Englishmen; they were as a rule the discontented and restless adventurers, the poor, the vagrant, and even those of the criminal class, or else they were those whose views of government and religion did not accord with the practices

which prevailed in England. Large numbers of the colonists were law-abiding, God-fearing, and conscientious people, but they were already liberal and even radical in their political opinions before they left the home country. England of the seventeenth century was seething with unrest; it was not the England which a century later had become fixed and stereotyped in its modes of political life and thought. Those who migrated during the reigns of the Stuarts were not likely to carry with them conservative views of monarchy, the divine right of kings, or of ecclesiastical tradition. In the large majority of instances they were inclined toward freer democratic life and opportunity. Born and bred with a deep seated notion of the rights of Englishmen, and coming into a world where frontier conditions prevailed and life was free from all surrounding influences of the past, it was inevitable that from the beginning tendencies should have been created toward the establishment of self-government, and that the history of the colonies should have been the history of the development of democratic ideas.

With the king and the home government three thousand miles away, without a *nobility* and an established church, with very

few conditions that made feudal incidents or practices necessary, the people who settled America were naturally inclined to consider before all else their own welfare and the needs of their own existence. They were settled in a wilderness, they endured the crude and often cruel hardships of their surroundings, they faced the circumstances of their own support under conditions that were always strenuous and severe. They had little place for form or ceremony, for privilege or preference, for the rights or prerogatives of class. It was hardly to be expected that they would sacrifice their own interests for the sake of landlords across the sea or for the benefit of a king and a kingdom that consistently deemed them but counters in its own game of commercial advantage. Between royal prerogative and mercantile policy on one side and a rough but imperative instinct of self preservation on the other, there was bound to ensue a conflict, the first phases of which can be seen at the very outset of our colonial history.

CHAPTER III

POLITICAL AND SOCIAL CHARACTERISTICS

It is evident that colonies extending through so great a portion of the temperate and torrid zones would show striking differences, even if their peculiarities had not been vastly increased by the circumstances attending their settlement and the varying religions and political influences which controlled and directed the activities of the people inhabiting them. It is not necessary to consider here the more extreme points of unlikeness. The rugged, hardy life of the Hudson Bay region stands in natural contrast to that of the tropical West Indies. These differences are manifest in themselves. Less evident are the underlying characteristics of the continental colonies which grew eventually into the United States of America, and less conspicuous their points of likeness and unlikeness. These features are not only interesting in themselves, but they were so inwrought into the very fibre of colonial life as to affect the future career of the nation.

From the political and constitutional point of view the peculiarities of north and south

were determined at the very outset of the seventeenth century. In the main New England was a homogeneous community with the town as the unit of its settlement and popular control of affairs as the chief characteristic of its political life. Unlike the colonists of Maryland, Virginia, and North Carolina, the New Englanders settled in compact, nucleated villages — little congregations of men and women of like minds, socially similar in temperament, clustered closely about the meeting-house, the village green, and the school. In Rhode Island the towns were more artificially formed than elsewhere, owing to the absence of religious unity, but even there in outward form at least the town conformed to the common type. Wherever the Pilgrim or Puritan found a resting place he set up a form of local life thoroughly characteristic of himself and his traditions. He had lived in towns of old England and he had cultivated the soil in the open field, dwelling in close proximity to his fellows, owning land in small parcels, and using pasture and woodland in common with his neighbors. In a majority of cases he had come to America not as an isolated individual but as a member of a group or company of Christians cov-

enanted together with God, an indissoluble religious body which became the basis of the town in Massachusetts, Plymouth, and Connecticut. Many of these communities drew up formal plantation covenants, declaring themselves to be "bodies politic"; while others organizing themselves as joint-stock companies for the purchase and distribution of land became landed proprietors as well.

In the possession and cultivation of his land the New Englander was burdened with no feudal obligations, for he owed no fealty and he paid no quit-rent. In New Hampshire where quit-rents were demanded by Mason, the payments were inconsiderable owing to the "perverse obstinacy" of most of the inhabitants; and when Fenwick, agent of the patentees of the short lived Saybrook settlement, proposed in 1643 to save the venture from bankruptcy by "a small rent out of every acre," he found that the people of New England deemed themselves supreme lords of their own lands and that a quit-rent would not be borne. The New Englander held his land either as an outright gift or as his share of territory purchased from a common fund, and his tenure, subject only to the higher needs *of the community*, was for the most part

1 absolute. Imbued with the idea of religious and political equality for all the "godly men," he endeavored to divide evenly the advantages and burdens of the community by distributing land in small and scattered parcels and by giving every one a share in whatever means of subsistence the town possessed. He forbade accumulation of landed property and knew nothing of communal holding of land. All undivided land was owned either by the original proprietors or by the town in its corporate capacity, thus exemplifying Winthrop's doctrine of individual ownership combined with common use. The inevitable result was the equality of all men before God in the church covenant, the equality of all men before the law in the plantation covenant, and the equality of all members of the community in matters of land holding and privilege. The elimination of quit-rents, primogeniture, escheat, and similar incidents found elsewhere among the colonies, tended to the development of a democratic spirit in New England.

The peculiarities of town organization and life found a counterpart in the political system established by the colonists in New England. The charter which the Massachusetts Bay Company received from King *Charles, February 27, 1629*, granted exten-

sive governmental and legislative powers, such as the right to elect its own officers, to make its own by-laws, and to add to its members. In the exercise of its powers the company acted as a democratic body of shareholders, a fact that was destined to affect profoundly the governmental history of the colony, inasmuch as the company, instead of remaining in England and attempting from there to establish a colony or colonies, itself removed to America and became a colony. In 1630 governor, deputy governor, and a majority of assistants sailed for New England, carrying with them their charter. Thus the company ceased to be a mere trading corporation, the object of which was to make money out of its ventures, and took instead the form of an incorporated group of undivided individuals seeking in a new country a permanent home and an opportunity of worshipping God in their own way.

The other colonies of New England shaped their governments more or less after that of Massachusetts, and thus there came into existence forms of political life in town and colony that with surprising uniformity placed the source of authority in all or a portion of the people. However much Massachusetts *may have* declared that democracy was not

ordained of God and that her system was not democratic, and however much aristocratic distinctions may have prevailed in social life and religious intolerance influenced the policy of the New England colonies toward others, the fact remains that in New England there existed in the structure of the body politic little that was either feudal, ecclesiastical, or monarchical, and fewer changes had to be made in the succeeding century and a half to effect the complete democratization of the colonies there than anywhere else on the colonial seaboard. Only recently has Rhode Island thrown off her distrust of delegated power and introduced into her government the feature of a strong governor with the right of veto on legislation.

The colonists who set up these governments were political as well as religious radicals, believers in equality among men, popular control of magistracies, and representative government. Men of similar views remained in England and played leading parts in the affairs of their time. Notable among them were such radical non-conformists as the Independents, who brought Charles I to his death and set up a minority government of the "godly"; and the extreme radicals, democrats or levellers, with whom

the conservative Puritans of the type of Warwick, Barrington, Lord Saye and Sele, and John Pym had little in sympathy, who voiced their opinions in the document known as *The Agreement of the People*, which, presented by the rank and file of the army to the Rump Parliament on January 20, 1649, advocated a government practically the same as that already at work in Rhode Island and Connecticut. But their plans, already on trial in New England, were rejected out of hand in old England where they were deemed subversive and dangerous. Only in a land free from ecclesiastical and monarchical tradition could they find favor. England at this time was not a seed ground for democracy, and it was no accident that before Cromwell's experiments had run their course the English people were ready to return to the monarchy. After 1660, therefore, New England and old England had little in common as far as political ideas and institutions were concerned.

The governments of Virginia and Maryland differed greatly in matters of detail but were similar in certain essential features, particularly when contrasted with the democratic system of New England. The settlement of Virginia on the banks of the James

at first struck no deep root, and for a dozen years it was questionable whether it would live or die. The venture of the London Company was one from which profit was sought, and unlike their compatriots in New England the early settlers in Virginia had not gone to America to escape religious or political persecution. At the beginning the colony possessed no power of its own to live, for it was governed, regulated, and chastised by the company in London, which gave it such life as it possessed. At first the colonists were men only; we hear of no women till 1608, when the first marriage took place; and the first child was not born until 1609 or 1610. Ship-loads of marriageable women were despatched by the company at various times, so that family life as well as emigration was artificially fostered. There was no such voluntary migration to Virginia as to New England; colonists were sought for by the company, encouraged by various inducements to go to a land the reputation of which was impaired by the nature of the climate and the great number of deaths; and to obtain settlers it was necessary for some years "to take any that could be got of any sort and on any terms." Even as late as 1618 *vagrants from London* were sent over, and

in common with other colonies Virginia was burdened with criminals from British prisons, the importation of which she tried to prevent unsuccessfully by legislation as late as 1722. Thus among the people who settled Virginia there existed no homogeneity, no similarity of origin, customs, experience, political principles, or religious thought.

In making their settlements the Virginia colonists were subject to none of those influences that drew the New Englanders into a close Congregational organization by towns. Very few of the Virginians were either Puritans or Separatists, and those few were bound by no church covenant or plantation compact. Though liberty of religion prevailed, the Church of England was made formally the established church of the colony and its clergy were supported by general taxation. There was but one plan of settlement, that provided by the higher authorities. The first town, Jamestown, was a fort within which were houses and a church; the second, Henrico, was also a fort; and neither bore resemblance to a New England town. Though the settlement spread gradually from the Falls (Henrico) to the mouth of the James, there was nowhere compactness *of life or grouping* of colonists. Coming to

America with no definite plan of settlement in mind and having no common bond, religious or otherwise, the Virginians felt more readily than the New Englanders the effects of climate, soil, and open country. The heat of the climate, the wide stretches of land, and the ease with which tobacco was cultivated, determined their manner of life, and we find them scattered along the banks of the rivers in private plantations, so far apart as to demand a loose political organization, first of hundreds and eventually of counties.

The system of land distribution was a matter of vital importance in the history of Virginia. In New England the final partition of the soil among the settlers was effected by the colonists themselves according to their own ideas. In Virginia, on the other hand, the company controlled the entire land system. At first no such thing as private property prevailed. Not until 1614 was any land distributed to colonists, and the little that was given out was burdened with a quit-rent of corn and an obligation to labor for the company one month in the year. Not until 1618 did any general distribution take place. Even then, the acquiring of a title was difficult, and at first the land was *largely controlled by shareholders of the*

company, two thirds of whom remained in England. Later, any emigrant who paid his own passage money might have fifty acres; but in the main the holdings were large and there were no such minute properties as in New England. It has been estimated that from 1632 to 1650 the average area acquired by grant in Virginia was four hundred and forty-six acres and later grants often rose as high as twenty thousand acres.

The grants steadily increased in size as the years passed, and were held, not in scattered parcels, but in compact masses forming wide and isolated farms. They were cultivated, not by the owner, but by white servants and negroes, neither of whom had any rights in the soil. The result of these conditions was social inequality; the country was divided into large plantations; accumulation of property in single hands became a natural and inevitable consequence, and a life essentially aristocratic arose. Such a condition was further emphasized by the establishment of the Church of England as the church of the colony, by the officialism that was sure to arise in a government where nearly all the appointments lay in the hands, not of the people, but of the governor and the *crown*, and by many incidents of feudal

tenure. Lands were held in free and common socage, involving declaration of fealty and payment of quit-rent; succession was governed by the law of primogeniture; and neglect to seat lands was legally followed by forfeiture and escheat. Virginia knew nothing of the small and scattered holdings, the widespread right of private ownership, and the equal division of property in case of intestacy that prevailed in New England. In the latter case the unit of agricultural and social life was essentially democratic, in the former it was thoroughly aristocratic.

Virginia was, however, the first to enjoy the benefits of a representative government, but not until many years from her first foundation. By the first charter all the king's subjects in Virginia were to enjoy the liberties, franchises, and immunities of Englishmen, but just what was meant by that phrase in the year 1606 would probably be difficult to determine. That James I had no intention of admitting self-government into the colony and that the Virginia Company of London at first deemed the settlement but a plantation and the people there but servants of the company, all the evidence goes to show. For the first eleven years Virginia was *ruled by despotic governors acting under*

instructions from England. Not until November 28, 1618, was the "great charter of privileges," designed by Sir Edwin Sandys and other members of the company to be the constitutional basis of a self-governing colony in America, ratified and signed; and not until April 29, 1619, did it reach the governor of Virginia with instructions for its introduction. Under these instructions, Governor Yeardley summoned an assembly of representatives from the "towns, hundreds, and plantations" of the colony which met in the choir and nave of the church at Jamestown. Thus the creation of the Virginia House of Burgesses was not the act of the people themselves, and there is nothing to show that the company in granting this important constitutional privilege was influenced by complaints from the colony. This scheme of self-government through an elected house of burgesses did not spring out of the convictions of the Virginia colonist. Popular government in Virginia differed in this respect from that of New England, where the right of the people to control government was a fundamental part of the political faith of the settlers. Governor, council, secretary, and other officials were commissioned by the crown *in England*, while the house of burgesses was

elected by the people in Virginia. Such was the form of government that prevailed through the colonial period in all the royal colonies.

Equally unlike New England and in many respects different from Virginia were the proprietary colonies of Maryland and Pennsylvania. Indeed, in some particulars, Maryland was unlike any of the other colonies, for it not only recognized certain incidents of feudalism but reproduced in all particulars the rights, jurisdictions, and immunities of a medieval fief. Sir George Calvert, made Baron Baltimore in the Irish peerage in 1624, was the only one of the single proprietors during the decade before the Civil War to prosecute successfully his plan for a colony. Though the Maryland and Pennsylvania charters were similar in many respects, the half century of time and experience that separated them left visible traces in the text of the latter document. Baltimore, Penn, and the Carolina and New Jersey proprietaries owned the lands of their respective provinces as they owned any private estate of land, and though their tenure was not military, as had been that of some of the earlier and unsuccessful promoters, "holding of the crown by the sword," it was still feudal, for they made *yearly payments* in recognition of the king's

suzerainty. These payments were actually made to the crown, and in the case of the South Carolina proprietors, who were always in arrears, amounted to a considerable sum.

Thus their colonies were provinces or seignories, though differing greatly in the extent of feudal practice prevailing among them. Yet all could sub-infeudate their lands and could fix the services, customs, and rents as they might desire. They could erect manors, thus authorizing the holding of courts baron and leet, though none ever were so held except in Maryland. To them and their heirs, or their deputies, was granted authority to make laws for the province, with the advice and consent of the freemen or their representatives, and to issue ordinances in times of emergency or otherwise. They could appoint all officials and constitute all courts for the execution of justice. Thus neither Maryland, the Jerseys, the Carolinas, nor Pennsylvania were colonies in the New England sense of the word; they were feudal provinces. Baltimore, for example, was not only a proprietor, he was also the lord of a fief with almost vice-regal powers, and this constitutional peculiarity has to be reckoned with, not only in the *history of Maryland*, but in that of all the

proprietary colonies. In the charter to Penn, certain special requirements were inserted, due to the experience which the British government had had with its colonies during the preceding seventy-five years. Penn must keep an agent in England ready to answer before the English courts for any violations or neglects in the observance by the colony of the acts of trade; he or his deputy must send all laws to England for confirmation or disallowance within five years after their enactment; he must allow the colonists freely to appeal from the colonial courts to the king if they desired; he could not have full jurisdiction, as did Baltimore, over the levying of taxes and customs dues in the colony; and he must recognize the right of the bishop of London to appoint ministers in the colony should a certain number of colonists so request. Thus Maryland and Pennsylvania, the only two proprietary colonies that survived, stand in striking contrast, as far as their relations with the home government were concerned. The former was to a large extent beyond the reach of British authority, the latter was constantly liable to British interference.

In local government and organization, *Maryland and Pennsylvania* differed widely

from each other and from New England, Maryland in this respect resembling Virginia. Even the first Maryland settlement, St. Mary's, was not a town, "extending in length by the water about five miles and in breadth upward toward the land not above one mile — in all which space, excepting only the proprietary's house and the buildings wherein the courts and offices were kept, there were not above thirty houses, and those at considerable distance from each other, and the buildings (as in all other parts of the province) very mean and little, and generally of the manner of the meanest houses in England." There were no other places that were called or could be called towns, "the people there not affecting to build near each other, but so as to have their houses near the water for convenience of trade, and their lands on each side of and behind their houses, by which it happens that in most places there are not thirty houses in a space of fifty miles." The efforts of the proprietary to create compact centres of population resulted in the establishment of a few places, such as Oxford Town, Charles Town, Calvert Town, and Battle Town, which were not really towns, but resembled towns more than did *anything in Virginia*. With the growth of the

colony and the increase in the number of settlers the lands about the rivers emptying into Chesapeake Bay on both sides were occupied, and large plantations came into existence. Baltimore encouraged large holdings, and he and his successors erected more than seventy manors, of a thousand acres or more apiece, along the Potomac, the Patuxent, the Patapsco, and their tributaries. Each "lord" paid a quit-rent to the proprietary and enjoyed according to the terms of the grant "the royalties and privileges as were usually belonging to such manors in England." On two manors, St. Gabriel's and St. Clement's, courts leet and baron were held, and during the early years of their history the settlers indulged in many of the incidents and obligations of feudalism. There was no military service and there was little descent by primogeniture and only occasionally an entailed estate, but there were such seignorial privileges as advowson of churches, right of free hunting, and the holding of courts baron and leet with their medieval methods of land conveyancing, and there were freeholds and apparently in a few instances copyholds, for which provision was certainly made in the instructions of the proprietary. *In Pennsylvania and the Jerseys the dis-*

tribution of land into parcels of great variety as to size and description took the form of land speculation in the interest of the proprietaries, but it did not prevent in either colony the erection of towns and cities. New Englanders, Dutch, and Quakers had already founded towns in the Jerseys, and the city of Burlington became an important commercial centre before the rise of Philadelphia. Penn made elaborate provisions for the settlement of his colonists in villages and boroughs, but his plans were successful only in part. Manors, plantations, and villages came into existence, largely under the control of the counties, but they possessed very little local vitality. The only self-governing towns at first were those which Penn found on coming to his province — Newcastle and Chester (Upland), and the one self-governing borough that he constituted, Germantown, forfeited its charter in 1707. Afterward Chester, Bristol, Lancaster, and Carlisle were raised to this position of dignified independence. Throughout the colonial period Pennsylvania remained a colony of one city with its hinterland an agricultural area inhabited by settlers scattered in plantations or located in compact *but not self-governing* villages, thus consti-

tuting a sort of compromise between the systems of New England and Virginia.

Thus in central government and local organization, in land holding and distribution, and in the many incidents of the life of the colonists, contrasts appear in the seventeenth century which are suggestive factors in northern and southern development. In government and legal practices New England had drawn away from old England more thoroughly than had Maryland and Virginia, which still retained social and governmental peculiarities that were similar to prevailing practices at home. Simplicity characterized the one; social formality to a certain extent the other. At Jamestown, every Sunday, we are told "the Lord Governor attended church in state accompanied with all the councillors, captains, other officers, and all the gentlemen, and with a guard of fifty halberdiers in his Lordship's livery, fair red cloaks, on each side and behind him. The Lord Governor sat in the choir, in a green velvet chair, with a velvet cushion before him on which he knelt, and the council, captains, and officers sat on each side of him, each in his place; and when the Lord Governor returned home, he was *waited on in the same manner to his house.*"

In Plymouth, on the other hand, the men of the congregation assembled "by beat of drum, each with his musket or firelock, in front of the captain's door; they have their cloaks on and place themselves in order, three abreast, and are led by a sergeant with beat of drum. Behind comes the governor in a long robe; beside him, on the right hand, comes the preacher with his cloak on, and on the left hand the captain with his side arms and cloak on, and with a small cane in his hand, and so they march in good order and each sets his arms down near him." The touch of religious simplicity in the one contrasted with the aristocratic stateliness of the other marks in exaggerated form a difference that did exist between Virginia and New England.

Yet it would be a mistake to believe that democracy and simplicity were the prevailing characteristics of the north, just as it would be an error to assert that Virginia was controlled by none but cavaliers even in colonial times. Though democracy prevailed in New England as a principle of government it was far from dominant as a rule of social life. Every part of New England had its aristocratic distinctions and its *regard for the niceties of rank.* The Massa-

chusetts leaders, in the early years at least, considered the order of the magistracy and the rank of a gentleman very nearly synonymous, and the Massachusetts Body of Liberties enacted that no true gentleman or none equal to a gentleman should be punished with whipping unless his crime was very shameful and his course of life vicious and profligate. Seats in meeting-houses, lists in college commencement programs, places at table or in processions, were regulated with extraordinary care. One-fourteenth only of those who came to New England had the distinctive title of "Mister," though many others won that honor later by faithful official service. Office-holding was one of the most certain paths to social distinction; and in town and colony the people loved to honor with reelection after reelection those whom they knew to be worthy. In all the colonies, especially in Massachusetts and New Haven, the clergy were political leaders as well as moral guides, and their injunctions were deemed second only to the commandments of God. Judges and magistrates stood with the clergy as leaders in the social order and with them shared the respect and *obedience of the people*. The code of law *and morals was exceedingly severe and pri-*

vate life was rigorously regulated by law. The Massachusetts Body of Liberties, the Connecticut Code of 1650, the New Haven Code of 1655, and many separate statutes, passed after those dates, declared what men should and should not do. Even the famous Blue Laws of Connecticut were only an exaggerated expression of actual statutes.

New England was before all else theological. The Word of God was always morally, and sometimes officially, the guide of life. Church was above state, and civil rulers, though elected by the people, were after all God's ministers for the guidance and correction of all. Hence duty to God and fear of offending God dominated men's thoughts, and no care was given to the duty to kings or to fear of offending them. Neither statute nor code during the first half century made any reference to other sovereign than God, and sins against society were construed rather in a religious than in a social light. In their fear of idolatrous practices, in their attempt to regulate the observance of the Sabbath, in their formulation of a code of morals and social relations that went counter to many of the finest instincts of human nature, and in their rejection of all honest but "uncalled" *men as unworthy* to be saved and destined

with infants unbaptised to be eternally damned, they made a God out of their own imaginations and crushed out of themselves and others the humanizing sentiments of philanthropy and love. The Puritan was not intentionally inhuman, but like the medieval monk he believed that beauty and pleasure, comfort and joy were offensive in the sight of God.

On the other hand the Puritan was very much like other men and often far from being the narrow and stiff-necked religionist that tradition has made him. "Alas, alas, my dear lord," wrote that austere dogmatist of later years, John Cotton of Massachusetts, "I see by often experience the shallowness of my own judgment." "I pray you send me two or three sheets of gilded paper," wrote John Davenport of New Haven, "I am about to write to my Lord Keeper," and this man of all men who eschewed worldly vanities and the vain contrivances of men, sealed his worldly request with a worldly coat of arms in red sealing-wax. "We hope to live together in the heavens tho' the Lord have denied that union on earth," wrote Roger Williams of Rhode Island to Lady Barrington, whose niece he wished to marry, and the great Tolerationist poured forth his heart in very *human fashion on his disappointment in love*

and on the uncertainties of his future career. There are no more beautiful love-letters than those which John Winthrop the younger wrote to his wife. The Puritan frequently yielded to his sense of humor, and indulged his appetite for the good things of this world. Many a one could descend to the frivolity of a joke; Cotton Mather was a rare punster; and Samuel Stone of Hartford was "of a sudden and pleasant wit." Numbers of the worthy clergy and magistrates smoked tobacco, though Massachusetts classed tobacco smokers with idlers, vagrants, and other unprofitable persons, and Connecticut strongly disapproved of the practice, even when allowing it under certain stringent conditions. Governor Eaton of New Haven kept a hospitable table, and Samuel Sewall, the famous diarist, amid much sickness and sorrow enjoyed life. The gloomiest centre of Puritanism was Massachusetts, where religious feeling became strained and intense, and men grovelled before their maker and wrestled, like Cotton Mather for his stricken family, "with the God of Jacob as did Jacob of old for his." Connecticut generally took a saner view of religious matters, and Rhode Island at Newport in the eighteenth century not only vied *with the aristocratic south* in wealth, culture,

and social activity, but was reading for its amusement the writings of Spenser and Johnson, Milton and Molière, at a time when Endecott was burning witches in Salem and Sewall was arranging the coffins in the family vault at Boston as "an awful but pleasing Christmas diversion."

Of contrasts in religious observance and faith and of education and learning too much can easily be said. There can be little doubt, however, that religious interests played a less conspicuous part in Maryland, Virginia, and the Carolinas in the seventeenth century than they did in New England, and that the standard of public morals was less highly maintained. Indifference in the observance of the Sabbath, drunkenness, and profanity, were common, as is evident from the frequent legal attempts made to control them, and temperance and prudence were virtues more honored in the breach than in the keeping. As a rule the clergy in Virginia were estimable and devout men, but there were sufficient instances of the contrary to call down upon the Virginians the charge of loose living and ungodly conversation from the stern Puritan moralists. Maryland and North Carolina lent themselves more *certainly to this accusation*, and Dr. Bray, who

visited most of the colonies, gave in 1700 a melancholy account of their condition in his letter to the bishops, showing a great want of ministers in Maryland, and in North Carolina an almost complete lack of religious worship, except among the Quakers. In South Carolina no provision for a church was made until after 1680. But with the entrance upon the scene of the Society for the Propagation of the Gospel in Foreign Parts and the work of Keith and Talbot, who travelled for two years preaching in every colony, a new religious zeal was aroused, churches were founded, and proselytes secured.

Puritanism was passing out of the earlier stage of vigor and youth and its theology and spirit were becoming hardened and stereotyped. The ascendancy of the clergy was leading to intellectual and spiritual decay among the people, and to an overwrought condition of religious self-consciousness that was deadening to religious progress. In truth with the eighteenth century New England and the middle colonies needed quite as much as did Virginia the reinvigorating influence of the Great Awakening of 1740, to restore the old conditions of religious earnestness and enthusiasm which had come in with the founders. If in the one case an *established* church too often bred fox-hunt-

ing parsons, idle curates, and perfunctory church worshippers, in the other a domineering body of clergy and elders produced religious apathy and intellectual torpor that remained scarcely changed until the preaching of Jonathan Edwards began in 1734.

In educational matters the differences are more striking, for in New England the doctrine that every community should have its school and schoolmaster tended in time to furnish a majority of the people with the rudiments of an education; while in the south the want of compact communities inevitably prevented the establishment of many free schools and threw the responsibilities of education upon each landed proprietor. Virginia had no public schools and the planters had to educate their children either in their own homes, at private schools such as that of Symmes and Eaton, or in England, and in consequence education inevitably became a privilege of the wealthier class. Even as late as 1770, Governor Bull could speak of the great lack of good schools in South Carolina. The fact that in the south during the colonial period education, whether at home or in England, on the plantation or in the private school, was for the few and not for the many, has left *an indelible impress upon southern history.*

CHAPTER IV

ECONOMIC LIFE AND INFLUENCE

MORE exigent even than constitutional systems and religious and educational attitudes was the influence of topography, climate, and staple products in determining the direction that colonial development should take. New England had few rivers and harbors, was broken by small mountain chains, and offered no wide stretching acres or single staple product adapted to plantation life. Virginia and Maryland on the other hand, with their great bays and rivers, veritable highways into the heart of the colonies, with arable lands stretching from river to river and lying adjunct to great bodies of water like Chesapeake Bay, with their milder climate which led the colonists to seek the easier road to wealth and to scorn the harder pursuits that a colder climate encourages, not only became agricultural, but made one form of agriculture their absorbing interest. Before the downfall of the London Company tobacco had become the only staple that Virginia exported to England, and though Maryland raised fruit and

a little grain, bred cattle and trapped furbearing animals, her only commodity for export before 1740 was tobacco, slightly inferior in quality to that of Virginia because the Marylanders took less pains with the leaves. Till the middle of the eighteenth century these colonies subordinated all crafts and industries and all varieties of staple products to the one commodity that would contribute most largely to their material welfare, and could be exchanged with the mother country for manufactured goods at a reasonable profit. And even to a greater extent South Carolina with her rice and indigo and the West Indies with their sugar staked their prosperity upon a single commodity and so placed a severe handicap upon their future development.

Briefly stated the factors which governed the economic development of the southern, middle, and northern colonies and remained persistent through the colonial era were these. In the south from Maryland to South Carolina manufacturing and commerce were subordinate to agriculture and traffic in furs; the staple products were carried in the ships of England or of other colonies, and only to a very small extent in their own, to *England or the Continent*, and in return the

manufactured goods of Europe were brought in large quantities to southern plantations to clothe the people or to furnish their homes. Thus the connection between these colonies and the mother country, as between the West Indies and the mother country, was a very close one, because the colonies furnished the tobacco, sugar, dye woods, indigo, rice, ginger, and cotton that England needed.

On the other hand the middle and northern colonies furnished none of these things. They had fish and furs for export to England and the Continent and after much urging and the granting of bounties they shipped a small amount of pitch, tar, turpentine, and hemp, with a few masts for the use of the royal navy. But in the main they did not come into direct contact with England on the export side. The northern and middle colonies raised corn and vegetables and other farm products, they bred horses, cows, and pigs, they made pipe-staves and clapboards, and built ships, pinks, snows, ketches, schooners, and sloops, and they sent all these articles and products off to the other colonies or to the West Indies. There they received money for their venture or they laid in a stock of sugar, molasses, and rum, *some of which* was consumed at home, some

sent to England in exchange for manufactured goods, or some, chiefly liquor, they sent to hearten the fishermen off the coast of Newfoundland or to purchase slaves in Africa that were in their turn sold to the West Indies for more sugar and molasses, and so the triangular traffic went on. The centres of this trade were Philadelphia, New York, Boston, and especially Newport, the slave emporium and one of the greatest commercial centres of the north in the eighteenth century. Hither British merchant ships would come bringing those manufactured articles that the colonists might buy with the coin obtained in their traffic with the West Indies and the Continent, and thither an occasional New England vessel would go forth for a trip across the ocean with a cargo of West Indian commodities, and sell ship and cargo to some English factor.

But the New Englanders were also the great masters of the coasting trade, pedlers at sea as well as on the land, doing a vast business in comparatively small quantities and engaged in a great number of petty domestic exchanges. More than any others among the colonists they were the distributing agents for the produce of the entire *colonial seaboard*, circulating staples from

one end of the coast to another. They were also fishermen, catching their own fish in New England waters or frequenting the harbors of Newfoundland, whence they would go forth, protected by British passes from capture by Algerine pirates, carrying cod, pilchards, salmon, herring, and "poor-jack" to Lisbon and cities of the Mediterranean, and return laden with European goods by way of England to America, or as was not infrequently the case directly to America, thus violating the navigation act of 1663.

From this brief statement it will appear that commerce in the north differed vitally from that of the south. The northern cities became great business communities, with business houses and prominent business families, such as the houses of Hull and Fan-euil in Boston, the Browns, Wantons, Freebodys, and Malbones of Newport, the De Lanceys, Rip van Dams, and Millses of New York, the Logans, Bohlens, McMurtries, Morrisses, and Willings of Philadelphia. With their docks and shipyards, their correspondence with agents in all parts of the world, their warehouses and their offices, these cities became emporia of trade, of intellectual activity, and scientific ingenuity. On

the other hand in the south a strong trading class never came into existence; the planter and the plantation was the seat of business, the bay and the river was the highway to the private wharf where was stored the butt, cask, and hogshead that contained all tobacco not shipped in bulk. To this wharf, sometimes at the planter's front door and sometimes, especially in Virginia, many miles away from where the tobacco was raised, came the vessels twice a year from England bringing foreign goods, letters, and papers to the family on the great plantation, the wealth of which lay in its wide acres and the prosperity of which was dependent on the rise and fall of tobacco. Thus Maryland, Virginia, South Carolina, and the West Indies had no trading and artisan class, no supply of native grown food-stuffs, no diversity of colonial interests. They never developed the trading city, which in the northern colonies was the abode of the merchant and the artisan, whose influence was to affect the history of the nation long after the southern planter as an economic factor had passed away.

The significance of these contrasting conditions lies *not* only in the fact that the *south* remained a land of agriculture to the

end of the colonial era, but also in the further fact, that when in the middle and northern colonies the wealth derived from commerce began to be supplanted by the wealth derived from manufacturing, the conditions were eminently favorable for a rapid extension of the shop and the factory. The south, even in her one city, Charleston, where the shopkeepers were foreigners and all banking, loans, and exchanges were in the hands of outsiders, never entered the stage of a wide and expanding industrial and manufacturing life. Even in the north during the colonial era manufacturing scarcely passed beyond the domestic stage, in which the colonists made their cheaper clothing, hammered out their own nails, and provided the necessary conveniences for comfortable living, nevertheless conditions there were favorable for the industrial revolution when the time came — when, for example, after 1793 Newport, without water power in the days before the age of steam, gave way to Providence, the centre of a new economic life, in which the factory took the place of the sailing vessel as the leading source of wealth. The instinct to manufacture was alike inborn and *developed* in the New Englander, and though *he never produced in colonial times anything*

that could be exported or could in any way come into competition with the manufactures of old England, the genius and the temperament, the town and the city were there. The real significance of these distinctions was to be seen after the Revolution in the famous controversies of the manufacturing north with the agricultural south over the adoption of tariff legislation.

These fundamental differences in political organization and economic life carried with them countless other distinctions in the social order. The fact that during the latter part of the colonial period all the colonies outside of New England were royal or proprietary colonies, in which a majority of the officials were appointees of the king or of the proprietary, created a social caste that often looked to England for its models and standards of social conduct. Governors, lieutenant governors, councillors, secretaries, attorneys general, chief justices, and others, appointed under the great seal of England, the royal sign-manual, or the seal of the province, looked to England for their authority and in some cases for their pay, and formed a party distinct from and above the people as a whole. The governors, more *frequently sent from England than selected*

from among the men of the colony, brought in social habits and customs, dress and furnishings that were rather English than colonial, and, inasmuch as many of these men were profligate and corrupt, life at the governor's court became extravagant and politics often smacked of graft and plunder. The officials in the royal colonies, the only colonies directly under the eye of the home government, formed a large and influential body of comptrollers, surveyors, naval officers, and officers of admiralty sworn to perform their duties as they ought to perform them in the interest of the government in England. Inasmuch as there were few such officials in New England, and only in Massachusetts after 1691 and New Hampshire after 1678 were there any regular appointees of the crown, except an occasional custom official, it was inevitable that the social conditions there should differ widely from those in the south, and that the close union that existed between the governors and the governed, particularly in Connecticut and Rhode Island, should give greater social compactness to life in New England. In the southern and middle colonies, to a greater extent than in the north, the people were *constantly* recruited from the immigrant

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Huguenot, German, Swiss, and Scots-Irish, of the latter of whom only one in five went to New England, and the lower classes were increased by great numbers of indented servants, paupers, and transported criminals. Though the stigma of criminality was less conspicuous then than it is now — for many of the “King’s Prisoners,” as they were called, were transported for petty thefts and other trivial causes, — though many “criminals” were skilled mechanics welcome to the colonies, and though Pennsylvania, Maryland, and Virginia endeavored by legislation to keep out the worst offenders, nevertheless such systematic immigration, continuing through the colonial period, tended to make class distinctions conspicuous and permanent.

Furthermore in the south the ready means of communication with England, the presence in London and other British ports of agents and correspondents with whom the southern planter kept a standing financial account, for tobacco was rarely paid for in actual coin, made it easy for the same planter to visit England, to send over his sons to be educated or to be trained as lawyers, or his daughters to enjoy the society of the great British metropolis. All returned, *ripened by their experiences abroad, bringing*

back the modish fashions of the time — stocking or shoe buckle, periwig, purple coat or buff waistcoat or flowered silk gown, adding grace and charm to the manners learned in the older world. Thus equipped, forming an aristocracy of manners as well as of birth, the inhabitants of the coast region sought to control politics as well as fashion. Notably in Virginia and South Carolina political progress was marked by a series of contests between the older and newer sections of the country. From the beginning of our history the struggle between the conservatism of the settled areas and the democracy of the frontier has been a factor of tremendous significance, and in its widest influence has been characteristic of New England as well as the south. In Virginia Governor Berkeley and his court met the first attack in Bacon's rebellion and were worsted; in the next century, when Scots-Irish and Germans had crept down from western Pennsylvania, the struggle was renewed and prolonged until the Revolution, when new leaders, Patrick Henry, Jefferson, and Madison, in large measure forced the issue with England against the contentment and conservatism of the commercial class. In *South Carolina*, that colony of a single town, the

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aristocracy, settled in the city of Charleston, endeavored to guard by every means in its power the politics of the colony against the encroachments of the dwellers in the back-country, who were mainly Scots-Irish. The power of the Anglican church in the south was used to strengthen the hold of the aristocratic party on government, while the presence of the English parish system as the only form of local organization was a force influencing local elections.

Thus throughout the entire colonial era the southern colonies showed greater traces of sectional and class distinctions — between royal officials, the church, and the aristocracy on one side and the poor farmer, the servant, and the negro on the other, and between the older or tide-water section on one side and the newly settled back-country on the other. The gaiety of the life which centred in the governor's court or in the household of the rich planter was English in its exuberance, its fashion, its scorn of manual labor, and stood in striking contrast with the upland regions where frontier conditions and frontier habits of thought and dress prevailed.

The Scots-Irish, who formed the second *most important* element composing the popu-

lation at the end of the colonial period, had little in common with the Anglican of the coast. He was compacted of the sternness of the Covenanter with the wit and humor of the Irish and cared little for culture, or knowledge, or beauty; he was energetic, resourceful, and enduring, conspicuous in adventure and brave in war. Tenacious in his theological views, he was equally stubborn in his adherence to political dogmas, and whether it was the wilderness or the catechism or the government that opposed him, he fought with the same determination against all. He was strongest in Pennsylvania, where he opposed the rule of the Quakers and combined with the Germans to effect their overthrow; but he was also strong in the upland valleys of Virginia and the south, where he struggled with the Indians and the hardships of settlement on one side and the property holders of the coast and their class legislation on the other, endeavoring to gain fair treatment and justice from the privileged and moneyed element that controlled the government. To a certain extent similar struggles went on in Massachusetts and New York, but nowhere were the differences so marked, the rivalries so *intense*, the distinctions between rich and

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poor so well defined as in the colonies south of Mason and Dixon's line. The first great sectional contest in America lay between the individualistic and democratic frontier and the old tide-water settlement, where lived and ruled the royal officials and the men of property, who in the greater number of instances were bound by ties of interest and affection to the mother country.

On the other hand the patriarchal organization of southern society, the glimpses of the larger world frequently obtained by the planter and his children, and the many arguments over government arising from the controversies between the royal officials and the delegates of the people, gave rise in this same aristocratic class to men of remarkable character and ability. Some of the strongest of our early political leaders learned their first lessons in the law trials at the county court-house and in the assembly defending the claims of the popular assembly. Supported by the labor of others, looking down upon the trade and industry which was deemed so honorable an occupation in the north, and finding their inspiration in the speeches of English lawyers and parliamentary leaders, many a southern planter *became a statesman of great oratorical power*

and personal charm. In this respect the leisure of the southerner stands in striking contrast with the enterprise and energy of the merchants and traders of the northern colonies, who as busy men were less ready to give their time to political speech making, and as capitalists were averse to provoking disorder and confusion. The southern gentleman, less concerned as he was with the petty politics of village and town, was more interested in the larger aspects of England's imperial legislation, and suffering but little from the effects of her mercantile and commercial policy was willing and able to take a larger view of political questions and to appeal to the precedents of the past as arguments in favor of the preservation of things as they were. Though education was less widely spread in the south than in the north, the few were better educated, more widely read, and possessed of a higher degree of cultured intelligence than were the majority of those who received a grammar school education in the New England towns. Throughout the New England colonies ignorance of the mother country, of her policy, government, and empire was widely prevalent, and as a result the men of the New *England town* were often then, as they have

been since, narrow in sympathy, local in interest, and parochially minded when large issues were at stake.

Thus stood the colonies from Maryland southward in contrast with the energetic, busy, self-centred population of the north. As all the colonies became older and the people were transformed from Englishmen into Americans many of the differences inevitably tended to disappear. Feudal practices gradually passed away and, except in a few matters of land tenure, the few lingering traces of feudalism were effectually removed when the constitutions of the revolutionary period were drafted. More important still, differences in forms of government became less and less striking, as in the long political struggle in the royal colonies between the executive, represented by the governor, and the legislative power, represented by the popular assemblies, the governors and councils were shorn of much of their authority, and in actual government the southern colonies approached the type presented in New England. The real difference between the north and the south in colonial times lay not in politics, law, religion, education, in manners, customs, or mental attitudes. *It is to be found in the fact that the south-*

ern colonies from the beginning to the end of the colonial period represented a purely agricultural form of life without towns, trading communities, variety of industrial interests and competition, and consequently without that ingenuity and scientific skill which is essential to the spread of democratic ideas and the increase of wealth.

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CHAPTER V

THE NAVIGATION ACTS AND BRITISH CONTROL

THE United States of America is the only one of the great powers of the world to be a colonial dependency during its earlier years. From 1607 to 1783 the people of this country were the subjects of Great Britain. Important, therefore, as were the life and institutions of the colonies themselves in preparing the way for the growth of the great democratic republic, of equal importance were the administration and policy of the mother country in her management of them. To tell the story of the colonies, and not to tell the story of the sovereign power that controlled them, is to leave our tale shamefully incomplete. Only in the study of that policy can we find the explanation of the American Revolution, whereby England's colonies became independent states and an independent American nation was born.

In the seventeenth and eighteenth century the modern notion of a self-governing colony had not been conceived. No clear idea of colonies as colonies apart from their value *to the mother country* had ever

entered the minds of British statesmen in the seventeenth century, and even to the end of the colonial era Englishmen looked on the colonies as plantations to be administered for the benefit of the mother country. It is a significant fact that the instructions for the management of trade and plantations issued in 1782, after the American colonies had all but won their independence, are word for word the same as those drafted in 1696, eighty-seven years before. As in principle and purpose the instructions of 1696 are the same as those of 1670 and 1672, we can say that for more than a century, through periods of constitutional change and imperial expansion, religious upheaval and colonial revolt, the official declaration of policy toward trade and foreign plantations remained unaltered in a single particular. Whatever changes might be effected in the details of administration, whatever rules might be laid down by one department or another of the British government to meet special conditions or emergencies, and however much individuals might find fault with the system of management at Whitehall, the fact remains that during our colonial period England's idea of the place of the colonies in the British system was unchanged and unchangeable.

The reason for this is not far to seek. Though the colonies were on royal soil the king had done nothing to promote them, having never started a single movement for the establishment of a colony on his western frontier. He gave legal sanction to private enterprises and took under his immediate protection colonies that had been founded through the efforts and at the expense of corporations and proprietors; but he did nothing on his own account, partly because of inadequate resources, and partly because he and his advisers viewed distant plantations as only factors in promoting trade and finance and therefore to be left to private initiative. Though the state might regulate trade by laying down the rules to be followed, it did not look upon trade as a government undertaking. From this it follows that England's colonial policy, instead of being a broad statesmanlike policy with the interest of the colonies at heart, was a narrow mercantile or commercial policy with the interests of the mother country at heart. Throughout the period from 1660 to 1783 trade was in the ascendancy, and England's leading men viewed these far-off territories from the standpoint of trade and profit. The colonies *were to be treated as sources of supply, and*

those that furnished the largest part of the commodities that England needed were the most important in their eyes.

It was a cardinal principle of England's merchants and financiers that the kingdom should have more sellers than buyers, because selling meant that other nations were dependent on England for their supply, while buying meant that England was dependent on other nations, a situation that statesmen and merchants were exceedingly anxious to avoid. They discovered very early where lay the commercial weaknesses of the kingdom and looked to the colonies to supply its deficiencies. They encouraged the search for gold, silver, and copper, whether in mines or wrecks, because they had no mines at home; they urged the colonists to plant vines to relieve them from dependence on the wines of France, to raise spices and tropical fruits to relieve them from dependence on the Dutch and Portuguese who controlled the eastern trade, to catch fish in Newfoundland and New England waters to relieve them from dependence on the superior herring fleets of Holland, to produce naval stores to relieve them from dependence on the Scandinavian and Baltic *provinces*. The capitalists and promoters

of the seventeenth and even of the eighteenth centuries saw in the forest lands of America endless supplies of potash for their glass, soap, and woolen manufactures, of saltpetre for their gunpowder, and of tar, pitch, turpentine, and hemp for the rigging and calking of their ships. They dreamed of the West Indies and Florida as a botanical garden where could be raised the spices, drugs, and fruits of the east. Ginger, cloves, pepper, nutmegs, cinnamon, and other spices; jalap, balsam, licorice, castor oil, and other drugs; madder, indigo, senna, and such dye woods as fustic, logwood, and brazilletto; pomegranates, figs, oranges, lemons, and other fruits; rice, cotton, and sugar — these were the staples that England could not produce at home and these with cocoa were the commodities that to the English merchant and the English epicure — craving variety and novelty in the food supply — were becoming a necessity at this time. Could these products be obtained from England's own colonies by a system of half profits, a practice early tried but always without success, or by exchange with her own manufactured articles, it would save much good coin to the realm and would add to the royal exchequer — never too full *under the Stuart régime* — a welcome sum in *customs receipts* and excise duties.

This was the origin of England's policy and this was the end toward which all British control was directed. Certainly not at first and certainly not at all as a primary motive were colonies to be fostered as centres of an independent political and economic life, bound to the home government only by ties of loyalty and affection. Plantations they were, not colonies, and plantations they remained to the end of the era. As such they would be aided and protected; as they grew stronger they would have additional opportunities and privileges, but under no circumstances were they to fail in their first duty of contributing to the support of the mother country in the way that her statesmen might direct. The colonies must engage in such form of commercial and industrial activity as would be advantageous, not to themselves, but to the common country, they must engage in no enterprise, manufacturing or other, that would injure England's interests, they must send their products to England only, the vent and staple of all colonial wares, and they must buy what they needed to buy of England only or through her as an intermediary.

In one respect at least the practice never *coincided* with the theory. The southern

and West Indian colonies never did fulfil that wonderful dream of a tropical east grafted onto a tropical west that influenced plantation councils and merchants during the seventeenth centuries. Fruits, drugs, and spices, silk, flax, and hemp never formed any considerable item in the colonial trade of that day. Sugar, ginger, rice, indigo, and dyewoods were supplied in varying quantities, but greater than these was the staple product that at the beginning won out against all comers. Tobacco, that "scurvy weed," as the Old Providence Company called it, became the leading colonial product, and though other staples came in later to compete with it, none could surpass it, except possibly sugar, and no effort of home government or private company could check its rapid increase. Though men of the time deemed its use a hygienic and moral evil, though they condemned tobacco smoking as a form of debauchery as debasing as drunkenness and opium smoking are deemed today, tobacco proved to be the only continental American staple that brought in to planter, merchant, and customs officer any adequate return. During the seventeenth century Virginia, Maryland, Bermuda, *Old Providence*, *St. Christopher* and other Lee-

ward Islands, and Guiana all produced tobacco, and in the end company, proprietor, and home government bowed before its supremacy. The prosperity of the early colonies was built upon smoke.

The tobacco trade began the shaping of English policy and determined the direction that her interests should take. Before parliament had placed the subject on the broader foundation of a statute, the Privy Council, as early as 1621, had issued its orders compelling the colonists of Virginia to send all their tobacco to England and forbidding all foreigners to trade with the colonies. In the commercial rivalry with the Dutch that followed, the Rump Parliament under the Commonwealth passed an ordinance in 1651, requiring that such trade should not only be confined to England but should be carried only in ships owned by English people or by the colonists, and manned by English masters with a crew, three quarters of which at least should be English. The act was not thoroughly enforced and the Dutch continued to trade with the colonies, in spite of it, until, after the Restoration, the feeling in England became so strong as to demand the embodiment of these principles in acts of parlia-

ment. Consequently, three great acts were passed in 1660, 1663, 1672, which repeated the former commands and added to them. England's commerce must be carried in England's ships, though foreign built ships might be used. Even this exception was withdrawn in 1662, and Ireland, which was included at first within the privileges of the act, was debarred in 1670. In the act of 1660 the former orders of the Privy Council regarding the bringing of tobacco to England only were given a wide extension, and sugar, cotton, indigo, ginger, and dyewoods, and later rice, molasses, beaver skins, cocoa, copper, and naval stores, were barred entirely from the foreign market. When in the operation of the act it was found that the colonists were carrying these commodities from one colonial port to another and then, deeming the law fulfilled, were sailing with them directly to Europe, the act of 1672 was passed. This act required that a duty, apparently equal to that imposed at the time in England, should be paid at the colonial port of entry, in case the ship captain would not bind himself by certificate to carry the commodities to England. When in 1696 the matter was taken up again the statute declared that even if the duty were paid

in the colony the commodity if reshipped must be taken to England anyway, and from there if desired transshipped to the Continent. This payment of a British customs duty in the colonies gave rise to the "plantation duty" and to the establishment of a corps of collectors who received it and transmitted it to England.

The acts thus far defined favored New England as against the other colonies, because the enumerated commodities were nearly all of exclusive southern or West Indian growth. But in 1663 an act was passed touching a new aspect of the case and affecting New England as well as the others. This act declared that all commodities imported into the colonies from the Continent should be brought to England before shipment to America. This meant that all imported articles which the colonies used must come from England, even though such articles might be of foreign manufacture. A few exceptions were allowed, such as salt and "victual," and wines from Madeira and the Azores, which were used in the colonies before they were used in England, but the exceptions were comparatively trifling. The ships were, of course, to be English built, and three-fourths of the mariners *English subjects*. The captain on arriving in

a colonial port must register his name, the ship's name, cargo, tonnage, and other details, with a person properly appointed to receive them, a requirement that brought into existence the naval officer, the first of whom seems to have been appointed for Jamaica in 1676.

By these acts the commercial policy of England was formally defined by statute, but for the first thirty years the laws were not strictly obeyed. Licenses were issued, particularly to the ships of Scotland, which kingdom, with Ireland and the Isle of Man, lay outside the privileged area and was forbidden to trade directly with the colonies. In 1665 an order in council allowed the use of foreign built ships manned by seamen of any nation in amity with England, and this order remained in force until 1668. The law was entirely dispensed with during the war with the Dutch in 1672. At other times, however, it was ordered to be strictly enforced, and in consequence complaints poured in, particularly from Barbadoes, Virginia, and New England, and the general charge was made that the acts of trade were seriously injuring the commerce of the plantations. Breaches of the acts were committed in the *West Indies*, New York, and New England.

particularly in connection with the Irish and Scottish trade, and the rumors on this point became so definite that in 1675 the king issued a vigorous proclamation, commanding the enforcement of the laws and calling on colonial governors to see that the proclamation was executed. But the effect was slight. Massachusetts with consistent disregard of the royal orders continued to trade freely where she liked, until, with the arrival of Edward Randolph as surveyor of customs in 1676, the evidence to this effect became so overwhelming that the colony lost its charter in 1684.

So lax did the whole system of administration become that finally in 1696 a new act was passed, designed to make more efficient the machinery of control. Colonial governors were reminded of their duty in no uncertain terms and mandatory instructions were sent to America. The powers of collectors and surveyors were precisely stated, and their appointment and supervision were taken out of the hands of the colonies and given to the Treasury and commissioners of customs in England. Naval officers, at first appointed by the governors, were made responsible to the British custom board, *and were eventually appointed by the crown.*

And finally, the colonies were strictly enjoined to pass no laws contrary to the act. As a corollary to the act, a few years later, vice-admiralty courts were erected in the colonies to try cases of illegal trading, and the number of officials directly concerned with the enforcement of the acts in America steadily increased. Thus at the end of the seventeenth century England had stated in a clear and forcible manner her determination to confine the trade of the colonies within the bonds of her commercial system.

Supplemental to these regulations regarding trade were the acts passed forbidding the colonists to indulge in any form of manufacturing, partly so as not to decrease the amount of raw materials produced in America, and partly to prevent any form of colonial competition with the manufacturing interests at home. England would supply the colonists with manufactured goods, either from her own supply or from the Continent through her own ports. This prohibition was a well understood matter in America. Men talked about it and on occasion could use the threat of manufacturing as an argument against some of England's demands. Governors and others watched for indications and reported suspicious movements

promptly, and parliament at sundry times, stirred by the manufacturers in England, passed acts — formal statutes — forbidding the manufacture of woollens, hats, and iron and steel wares in America. In 1733 it passed a Molasses Act to compel the New Englanders and others to buy their molasses, sugar, and rum of British instead of foreign colonies in the West Indies. But before 1764 all these acts were trifling as compared with the navigation acts. The south had no manufactures, New England none for export, and the act of 1733 was consistently violated.

As England had only a commercial and not a colonial policy it was inevitable that she should develop no system of administration that had other than a commercial aspect. With a skill characteristically British she made use of the existing machinery of government to carry out her program. She introduced no strictly new features, being content to adapt, and in some cases to enlarge, those that would have existed had no colonies ever been founded. She established during the colonial period no department or board for the sake of the colonies alone. Except in a few minor cases no official was ever appointed in England that would not *have been* appointed for the ordinary busi-

ness of the realm, and even the colonial governor, though the office in its development naturally assumed new characteristics, was no new invention. The titles of other officials were familiar to all Englishmen, and the system of collectors, naval officers, and vice-admiralty courts was merely the extension to the colonies of the larger system at home.

But England's own constitutional and administrative organization underwent great changes during the seventeenth and eighteenth centuries. The institutions of the seventeenth century were largely transformed in the eighteenth, and the governmental situation in 1750 was very different from that in 1660. Between these years England passed, constitutionally speaking, from a medieval to a modern state. Before 1689 governmental methods were largely royal and personal; after 1714 they were to all intents and purposes departmental and official. During the period of settlement we read much of the king, his chancellor, treasurer, and admiral, his council and commissions; after 1714 we find a series of great departments, the Admiralty, the Treasury, the War Office, and a group of state officials, such as the secretaries, filling the *scene*. The seventeenth-century system of

administration was medieval and in a sense feudal; that of the eighteenth century was modern, civil, and largely impersonal.

Properly speaking, during the whole colonial period, the ultimate executive authority, in all that concerned the colonies, was the king and the Privy Council; but before 1689, the two in combination, constituting the king in council, shared their authority with no one. Subordinate departments hardly existed, and subordinate officials, such as the lord high treasurer and the lord high admiral, were the king's servants, however important they might be. The various councils and commissions appointed to look after trade and the colonies were simply advisers of the crown, and could be created and abolished at will. The Privy Council might take into its own hands all the functions temporarily exercised by such bodies, as it did in 1674, when the council of 1672 was dissolved, and it could perform the duties itself through a committee of its own, as from 1674 to 1696, when the supervision of trade and the plantations was in the hands of the Lords of Trade. The point is that nearly to the end of the *seventeenth century* the king and the council and *their advisory boards and committees were*


in absolute control of all colonial business and shaped an administrative policy for the colonies that was to last but little changed for a century.

From the beginning the duty of these councils and committees was to regulate and promote, not the welfare of the colonies as such, but the trade and commerce of the kingdom. The plantations were at all times secondary to trade, and the trade with which these bodies were concerned was the entire trade of the kingdom. With trade went its concomitants, manufactures, industry, the poor, imports and exports, production and distribution, free trade and monopoly, improvement of ports and harbors, customs, impositions and excise, trade practices of foreign nations, and methods whereby the competition of other nations might be met and overcome. Thus these boards of control performed the functions of many modern commissions, of labor and commerce, tariffs, health, and emigration. Under such circumstances no adequate colonial policy could be evolved that was not merely an adjunct to a commercial policy, and the measure of British colonial control can be determined only in terms that are *largely economic and financial.*

But even when viewing colonial interests from the commercial point of view, the Privy Council and the subordinate boards busied themselves with a great variety of colonial matters. The orders of the council and the instructions to and proceedings of the boards show that the colonies were frequently before their minds and in their hearts. If they were to improve the trade of the kingdom it was necessary that they know all about the settlements beyond the seas and see that nothing happened to injure these important territories. They inquired into the general state of the colonies, obtained full information regarding councils, assemblies, courts of justice, courts of admiralty, legislative and executive powers, statutes and ordinances, militia, fortifications, arms, and ammunition. They found out all they could about boundaries, land, mines, staple products, and manufactures, rivers, harbors, and fisheries, and received statistics of population, immigration, shipping, and revenues. They made honest efforts to discover the obstacles to trade and how they could be removed, the advantages and how they could be increased, and they were interested in all measures *taken for the instruction of the people and the maintenance of the ministry*. They entered

into frequent correspondence with the governors, urged upon the latter the necessity of keeping the peace with their neighbors and with the Indians, and of guarding, should war break out, the persons, goods, and possessions of the settlers.

This was the field within which the Privy Council and the boards acted in the seventeenth century, but it must not be forgotten that they did all these things in order to make the colonies profitable to the crown. Quarrels and disputes only hindered the growth of the plantations; lands granted but unoccupied and uncultivated were valueless to Great Britain; New Netherland in the hands of the Dutch was a distinct menace to British commerce with the colonies; an independent Massachusetts, persistently ignoring the acts of trade and the commands of the king, was assuming a position that could not be tolerated, if dependency on the crown was the essential status of a colony; many small, separate colonies, such as England tried to unite in 1686 under Andros and afterward to bring directly under the authority of the king, were a weakness in time of danger and a "great and growing prejudice to the king's affairs in the plantations," and *should not be allowed to remain outside the*



king's control; wasted and plundered colonial territory, such as would result from attacks by the French and Indians, or territory lost to England and in the hands of her enemies, was of no value to either statesmen or merchants.

Thus in the seventeenth century control over the colonies was measured by the ease and success with which they could be managed in the interest of British plans for the enriching and strengthening of the kingdom. In the earlier years of settlement the crown had allowed proprietors and corporations to stand between it and the colonies and to determine in large part the government which the colony was to possess. Hence had arisen the great variety of forms and institutions in America, from the democracy of New England to the autocratic system first introduced into New York and the military governments of Newfoundland and Nova Scotia. But gradually there began to take shape the idea of a more uniform and centralized system of colonial control whereby the usefulness of the colonies might be more effectively developed, and a self-sufficient economic empire might be built up under the immediate control of the British crown. *Jamaica* was a crown colony, *Virginia* and *Barbadoes* had become such, and in the

decade from 1680 to 1690 New England, the Jerseys, Maryland, and Bermuda were brought into line, though in part this arrangement was to prove but temporary. How far this attempt to transform proprietary and corporate colonies into royal provinces represents a definite policy, we need not inquire, but it was continued in the next century when the Jerseys, the Carolinas, Bahamas, and Georgia were added, and if the Board of Trade had had its way the other colonies would have been added also. The main point is, that Englishmen were awakening to the fact that the old *laissez-faire* system of the seventeenth century, according to which the government regulated trade but took very little direct interest in colonial administration, was proving hopelessly inadequate and the conviction was abroad, particularly among those whose business it was to inform themselves of conditions in America, that, if the plantations were to occupy the place that England intended that they should occupy, and if they were to be compelled to obey the trade regulations which England intended they should obey, they must all be directly controlled by the crown.

CHAPTER VI

IMPERIAL ADMINISTRATION IN THE EIGHTEENTH CENTURY

THE revolution of 1688, the consequences of which were not determined till 1702, and perhaps not fully determined till after 1714, marks in a general way the dividing line between the old constitutional system and the new. The crown, though retaining its prerogative rights under William III and in a measure under Anne, finally ceased to be a guiding factor in government and its place was taken by the great officers of state, who, though ministers of the prerogative in origin and in large part remaining so legally, were becoming more and more ministers of parliament, particularly after 1746, and heads of independent departments. The Privy Council, though retaining its dignified position as one of the oldest and most commanding of all the organs of government, and still influential as the ultimate authority in colonial affairs, was fast losing its place as a deliberative and originating body. It still retained, when sitting as a committee of the whole *council*, extensive functions, and no colonial

law could be disallowed or confirmed, no appeal or complaint heard, no governors' commission or instructions issued, except by itself. Though losing much of its importance in the presence of the great officials and departments that were actually running the affairs of the kingdom, it was no figure-head as far as the colonies were concerned.

Parliament was extending its powers and taking over many of the functions of the executive, particularly after the middle of the century, when royal proclamations, orders in council, and instructions to the governors were proving insufficient to check the aggressions of the colonial assemblies. Parliamentary statute was taking the place of the royal order as the final authority in shaping the constitution. As the king and Privy Council fell into the background, the secretariat and the departmental boards rose into prominence, and government by party, cabinet, and executive officials and commissions characterized the period. Though the king's sign-manual, the great seal, and the order in council were still necessary, as they are today, to give legal warrant to acts of government not regulated by statute, they tended to become in the eighteenth

century legal formulæ registering the recommendations of officials and departments.

What were the bodies that had to do with plantation during this second period of our history? The tale is more complex than for the period before 1689. We still have the king in whose name all commissions were issued, except those of the customs officials in America. We have also the Privy Council, of importance chiefly when sitting as committee, concerning itself but little with general colonial business, though still a factor of the highest importance in certain specified directions. We have parliament entering into a wider field of activity, putting forth an increasing number of statutes fundamentally different from those issued in the seventeenth century, calling for information and elaborate reports from boards and departments, the members of which generally sat in the House of Lords or the House of Commons and presented bills of interest to their particular board or department; appointing committees to consider colonial questions and summoning before it the advocates or opponents of a particular measure. We have the secretary of state for the *southern* department, now the influential *head of a separate office of government, into*

whose hands was coming a vast mass of foreign, domestic, and colonial business. He was no longer the mere secretary who conducted the correspondence, or even the representative of the king in the latter's communications with the council, as under William III, but had become the aggressive head who initiated policies and asserted the right to carry them out.

After king, Privy Council, and secretary of state came the great independent departments of the Treasury and the Admiralty, possessing executive functions as departments of state. The financial system of England with which the colonies came into frequent and persistent contact consisted of three parts: the treasury board, after 1733 in a new building at the Cockpit, which controlled the financial policy; the exchequer at Westminster Hall, where the accounts of receipts and disbursements were kept; and the bank of England, where after 1694 the money was actually deposited. Under the treasury were many lesser boards and officials — the commissioners of customs, the victualling board, the auditor general of plantation revenues, the register of *emigrants* to the plantations, the general *post-office*, and occasionally temporary com-

missions such as those that inquired into the claims of American Loyalists and of East Florida settlers after 1783. Much time has been devoted to the study of colonial finance, but almost no attention whatever has been paid to the methods of financial control adopted by the British Treasury in dealing with royal revenues and expenditures in the colonies. Yet these revenues were neither uninteresting nor unimportant.

In close connection with the Treasury, though in no sense dependent upon it, was that "subordinate but opulent office," as Lord Rosebery calls it, the office of the paymaster general of the forces, the incumbent of which was of ministerial rank and political importance and possessed of opportunities, in that corrupt century, of acquiring private wealth at the expense of the state. Prominent men held this office and profited by it, though William Pitt passed through his tenure of it unscathed. Under the paymaster were the deputy paymasters in America and elsewhere, through whom the troops were paid, works and fortifications erected, and ordinary and extraordinary expenses met.

The second of the great departments was the Admiralty, the beginnings of which, as

an efficient working body, date from the reorganization brought about by two men better known in other connections, James, Duke of York, and Samuel Pepys, respectively lord high admiral and secretary first of the navy board and afterward of the higher admiralty board. The admiralty system after 1709 consisted of an admiralty board, a treasurer, a navy board, a victualling board, a marine office, a board of sick and wounded, a transport board, and Greenwich hospital, formed from the palace of Greenwich, which William III gave to the nation in 1694. The Admiralty had oversight of the great squadrons of the fleet, and busied itself with convoys and transports, imprests and embargoes, pirates, privateering, passes, and the enforcement of the trade laws. It plays little part in colonial history before 1676 and its share in protecting colonial trade does not become conspicuous till after 1690, though even at the height of its activity the demands of colonial trade were always deemed secondary to the demands of the navy as an instrument of war.

The last of the departments, though never a separate executive organ and assuming no responsibilities even within the limited scope *of its activities*, was the War Office under a

secretary at war. This official traced his origin to the period of the Interregnum, but he was continued under Charles II as a secretary to the general of the forces. He was of comparatively little importance before 1689, for there was no standing army; but after that date, when a standing army was created annually by the Mutiny Bill, he continued to increase in dignity and power. After the middle of the eighteenth century he was able to build up a strong departmental system which performed the routine work connected with the army according to the discipline of war. This department had nothing to do with the militia, the guards, or with ordnance, transport, and supply, and before 1756 it plays little or no part in colonial history. But after that date it stands as equally important with the departments of the Admiralty and the Treasury, except that it had no share in shaping the policy of a campaign. Secretaries of state, such as Pitt, controlled entirely matters of war policy. As a member of the House of Commons the secretary at war had to move the army estimates in parliament, and with the aid of the judge advocate general to *meet* every attack upon the commander-in-chief or his office. He was constantly in

correspondence with officials in America and had charge of the welfare of the army there. He was in close touch with the department of ordnance, a separate office under the master general and board of ordnance, which controlled the artillery and engineer corps, the equipment of barracks, fortifications and works, and with the commissary general who looked after the supplies.

Last of all, we come to that very important though subordinate body, familiar to all students of colonial history, the Board of Trade and Plantations established in 1696. It was the direct successor of the councils and committees of the seventeenth century and the faithful preserver of their policy. The field of its activities was somewhat more limited than that of the former councils, but within its narrower range it found more to do owing to the great expansion of trade during the years that had elapsed since 1696. In its hands lay the chief business of communicating with the colonies, and from its papers Privy Council, parliament, and departments obtained the information that guided their action. But it had no power of its own to carry out a policy, *being entirely dependent on ministerial sup-*

port for the maintenance of its program. The carefully formulated plans of the board might be overturned at any time by an adverse vote in parliament or by an adverse decision of the committee of the Privy Council, to which all its regular reports and representations were made.

The Board of Trade was the only important body in the British system of government that had no executive powers of its own. It could always inquire and inform itself, it could make any number of recommendations and suggestions, its advice was sought and generally adopted, and at times it had a considerable right of patronage; but it did not have what was of fundamental importance, the power to form a clear-cut and effective program with the certainty that it would be carried out. The board lasted for eighty-seven years; it developed fairly definite ideas as to what the British policy toward the colonies should be; it maintained in the Plantation Office a permanent staff of secretaries and clerks who became the guardians of the traditions of the office; and upheld, during periods of political manipulation and frequent change, a more or less *fixed colonial program*. It was, indeed, often *slow and indecisive in its action and as*

William Knox, who knew the office well, once said, "countenance was necessary for getting business done," but it was hampered, checked, and thwarted at many stages of its career by other governmental bodies that alone were responsible for the ultimate decision of the British government in matters relating to the colonies. The Privy Council could and did reverse its decisions, the secretary of state could and did draw away its business and its patronage and reduce it to a more or less inferior bureau of information, the houses of parliament could and did pass laws that the board did not recommend, and refuse to pass laws that the board desired as deserving of support in the interest of the kingdom. The departments of the Treasury and the Admiralty took no orders from the board and while frequently coöperating with it, when such coöperation was necessary and desirable, took their own time about doing so, and sometimes ignored the suggestions of the board altogether.

These were the principal organs of the British administration with which the colonies came into contact and through which the British government exercised its control. The machinery was the same machinery that *England* would have had if the colonies had

not been in existence. All the bodies and officials mentioned had the regular business of the kingdom to look after and all, except perhaps the Board of Trade, had to turn aside to deal with the colonies as but a minor and comparatively unimportant part of their regular duties. With characteristic devotion to practices of the past, the government never recognized the necessity of a colonial office. It placed the general oversight of twenty important colonies in the hands of a body of men who considered a vast deal of business that was not colonial, from the running of wool to quarantine regulations and the prevention of contagion and epidemics; who sometimes sat for days debating the instructions to a foreign envoy or the terms of a trade treaty; who were in correspondence with consuls, envoys, agents, and scores of other persons who had nothing to do with the colonies, and who spent as much time on matters connected with the trade of England, Scotland, and Ireland, and of Hamburg, Sweden, France, Russia, Portugal, the Mediterranean, and Africa and the African Company as they did on affairs in America and the West Indies. Is it surprising *that a board should have proved ineffective that had no power of its own to execute a*

definite policy, which was distracted by a hundred questions that in no way concerned the colonies, whose chief interest in America, as in other parts of the empire, was the encouragement and extension of trade, and whose attention was directed far more toward the West Indies than to the colonies on the mainland, with whose growth and aspirations the board had but slight acquaintance?

Furthermore, the real responsibility for a colonial policy lay, as we have already seen, with offices of government that dealt with colonial affairs only as incidental to their regular duties. The secretary of state for the southern department, for example, had under his charge, not only the colonies, but the whole of southern Europe including Turkey, as well as Africa and the islands off the African coast, Scotland and Ireland, war, and domestic concerns. It is true that some of this business rested very lightly on his shoulders and that other officials took many of his responsibilities upon themselves; but it is also true that did the secretary desire to interfere in any of these concerns, he could be very mischievous in doing so and could hamper other subordinate officials as he did *the Board of Trade*, by controlling their

actions and by taking out of their hands much that might better have been left alone. In the case of all the departments no attempt was made until late in their history to keep colonial entries and accounts separate from the records for the United Kingdom, and all are mingled together in a fashion that is not only embarrassing to the modern student but must have been equally embarrassing to the officials themselves in their search for information. Until 1767 even the statistics regarding colonial customs and the lists of colonial customs officials were scattered among the papers and rolls that relate to England itself.

Consideration must also be given to two or three aspects of the situation in England that had an undoubted influence upon the British system of administration. First, the many offices of administration were not centralized, but were widely scattered, the heads in Whitehall and the subordinate branches two miles away in the City and about the Tower. There were fifteen different offices connected with the Admiralty, no two of which were under the same roof, and there were a dozen divisions that had to do with *the business of war*, of which only three or *four* were in the same place. Secondly, a

low order of efficiency and sense of duty prevailed among the officials in the higher ranks, resulting in great hindering of business and negligence in the execution of orders and instructions. Thirdly, a loose and demoralizing financial system, whereby graft and speculation went on among the higher officials, and poverty and want prevailed among the office clerks, postmen, messengers, and wage earners, whose pay was frequently in arrears. Lastly, politics tended to interfere with appointments and removals, and personal motives and personal ambitions influenced the selection of officials both in England and America. How far this situation operated disadvantageously it is difficult to say. Despite the frequent changes that were made in the personnel of the Board of Trade and despite the inferior abilities and low aims of many of the commissioners, the board had a consistent policy that deserves our respect, and much might have been accomplished had it received adequate support from those who had the ultimate responsibility in their hands.

Nevertheless British rule in America was no dead letter. The extent of royal authority exercised and obeyed in the colonies *was very great*. During the seventeenth

century royal control was potential rather than active. There were the officials in the royal colonies; there were also a few collectors and naval officers; three or four temporary commissions were sent over in special emergencies to remedy certain grievances and abuses, but beyond attempting the immediate work before them these commissions did very little; a few soldiers were sent to Jamaica, Virginia, and New York, but they played an insignificant part there; a few ships of the royal navy were despatched to American waters, but the navy even in English history had not become a conspicuous factor. Except for one great attempt to unite all the northern colonies in a single dominion under a single governor, Andros, no systematic effort was made to strengthen British control of the colonies or to introduce a body of officials whose immediate end and aim was to serve the crown in England.

But with the eighteenth century we feel a tightening of the bonds. More colonies came directly under the control of the king and received royal appointees. A famous effort was made to bring all the proprietary and corporate governments into direct dependence on the crown which lasted from 1701 to 1716 and was not entirely given up till the

middle of the century. This effort, one of the most significant and yet one of the least understood of all England's attempts to regulate the colonies, was vigorously promoted by the Board of Trade, was taken up with ecclesiastical ardor by the Anglican church and the Society for the Propagation of the Gospel, and was supported by all the Anglican churchmen in the colonies, who wished to overthrow the power of the Puritans in New England and the Quakers in Pennsylvania and New Jersey. The effort had the support of Queen Anne and the Tory party in England who upheld the established church. But the Whigs, in full control of government after 1714, opposed the bill, four times presented (1701, 1706, 1715, 1722), because they believed in Locke's doctrine of vested property rights and deemed it unjust to deprive corporation or proprietor of franchises legally granted. They succeeded in postponing or defeating the measure each time it was presented, although in 1706 it passed the House of Commons only to suffer defeat in the House of Lords. The board consistently adhered to its policy for nearly thirty years longer and in 1731 and 1745 rumors came to Connecticut that plans were on foot to deprive the

colony of its charter and to unite it and Rhode Island to Massachusetts. But the plan if seriously considered was never carried out and the non-royal colonies remained intact to the end of the colonial period.

In other respects the bonds with England were drawn more firmly. Colonial laws, which in the royal colonies from the first (1629 in Virginia) had been subject to the ratification of the crown, were now sent regularly, not only from the royal colonies, but from Massachusetts and Pennsylvania also. The only colonies that were not required to send their laws to England were Maryland, Connecticut, and Rhode Island; but Maryland, while a royal colony, had many of its laws disallowed, and later under the proprietary, particularly after 1756, contemplated the submission of its laws to the board; Connecticut was instructed to send its laws in 1698 and did so; it had one law annulled in 1705, another in 1728, and all its laws reviewed in the years from 1733 to 1741; Rhode Island in 1699 sent over an abstract of its laws and in 1704 had the act relating to admiralty jurisdiction declared null and void although the colony had never sent over the act itself for royal inspection. *While colonial legislation was thus under-*

going rigorous scrutiny the instructions to the royal governors became more full and precise, until after 1750 they were made very positive and mandatory. Great numbers of special instructions were drafted and despatched and these instructions covered a wide range of colonial interests.

In addition to the governors nearly all the officials in the royal colonies were appointed either from England or by royal officials in America. Treasurers were sometimes named by the governor, sometimes chosen by the assemblies, and constables and overseers, where they existed, were sometimes appointed and sometimes elected. Secretaries, attorneys general, and chief justices were appointed by the crown and the number of customs officials, beginning with four in 1676, steadily increased until it reached forty. Customs officers were to be found in every colony from Nova Scotia to Barbadoes, and they collected for the British exchequer the duties levied by the act of 1672. Deputy auditors and receivers general looked after quit-rents, forfeitures, fines, prize money, and various licenses. Very important were the courts of vice admiralty, set up after 1700 to try breaches of the acts of trade; special courts appointed

for the trial of pirates; and the commissions to decide boundary cases and to take charge of prizes captured in war. Important also was the steady increase of British garrisons stationed in Newfoundland, Nova Scotia, New York, South Carolina, and especially in Bermuda, Jamaica, and the Leeward Islands, and the extension of fortifications, barracks, and other works, and the supplies of arms, ammunition, and other munitions of war despatched by the ordnance board for the defense of the colonies. The long war from 1697 to 1715 brought conspicuously forward the need of protection against the French, and to certain colonial governors — Fletcher, Bellomont, Phips, and others — were granted military commissions over two or more colonies that gave great offense because they seemed to foreshadow a more complete military control. With the years from 1745 to 1763 this question of defense became a pressing one and British military interests in America became correspondingly prominent.

When brought together in two or three paragraphs, and what has been said here enumerates but in briefest outline the actual *British* officials and interests in America, it *would seem* as if British authority should

have been amply upheld in the colonies and that all tendencies toward colonial independence should have been checked at the outset. But before going further we must take two or three things into consideration.

The system of administration in England was not well adapted for the government of distant plantations. Authority was decentralized and business was executed in a manner that was slow and cumbersome. Recommendations lay in the hands of a great variety of departments, while ultimate execution lay in the hands of crown and council or parliament. Months would elapse before a recommendation would be acted upon and sometimes it would not be acted on at all. Among the various offices, as far as colonial business went, there seemed to be little feeling of coöperation and responsibility. The Admiralty and Navy Board were frequently on unfriendly terms, and the Ordnance department resented the efforts of the secretary at war to assert authority over it. The Board of Trade, that knew the situation in America best, was helpless when it came to executive action. Could its reports have had the authority of commands, its dignity would have been increased and its *position greatly strengthened*. But it was

never looked up to as a responsible body, the home government never deemed it much more than advisory in character, and the colonial governors never felt any certainty that they would be sustained if they attempted to carry out rigorously the instructions sent to them. What the government should have had, if the colonial policy of England were to be executed with firmness and despatch, was a consistent, vigorous, and well-defined method of colonial control, in the hands of a board possessed of executive powers, and based on an intelligent understanding of the situation in America.

Very few of the British officials had either knowledge or understanding of America. Their failure was not always due to inability to obtain information, for the board could generally give them the information that was necessary, but they seemed powerless to comprehend the seriousness of the situation or to meet it when they saw the danger. Of all offenders in this respect the British parliament was most conspicuous. In thwarting the well-laid plans of the Board of Trade and in pursuing an opportunist and conflicting policy, parliament did more than any other *part of the British system to prepare the way for the eventual revolt of the colonies.*

Parliament never understood the aims and tendencies of the people in America. The laws that it passed, like all the statutes of the eighteenth century, were designed to meet particular needs and not based on any broad and general principles. Hence it was inevitable that in nearly every respect parliamentary legislation should be fitful and inconsistent in character.

Had appointments to office been better managed and sinecures, pluralities, and service by deputy been strictly forbidden, and had colonial finance been capable of any sort of satisfactory solution, the badly constructed system of administration in England might not have proved so inadequate to meet the demands in America. But unfortunately colonial management in the eighteenth century fell on an evil time. Political morality was at a low ebb and bribery and corruption and harmful official practices were not only tolerated but defended. The methods adopted in dispensing public patronage in England spread to the colonies; civil service reform was unknown, except perhaps in the lower staff offices. The fact that the Board of Trade could not appoint colonial officials threw the assignment of *important posts* into the hands of those who

could exercise political influence. All the important colonial offices in the royal colonies were held directly or indirectly of the crown. Walpole and Newcastle had their regular lists of appointees; the bishop of London was influential in securing political preferment for those whom he deemed useful allies of the Anglican church; many private individuals were able to secure positions for those whom they favored, with the result that public office in the colonies was open to men of low standards to whom the political atmosphere was eminently congenial. The situation was made worse by the practice of granting colonial positions to men already holding office in England who farmed out their patents to the highest bidder, with the inevitable result that the latter tried to benefit themselves by using their opportunity for private gain, a practice officially allowed.

The situation was still further complicated by the inability of the government to create a satisfactory system of payment for the royal officials in America, either out of the British exchequer directly or by obtaining from the colonies a regular appropriation for a civil list which would render the colonial governors independent of the colonial assemblies. The fact that many of

the officials were dependent on fees for their support brought into exaggerated prominence the money side of their business and led to what often appears as an over-zealous regard for such features of their offices as brought in financial returns. When we consider these and other aspects of the British system we can wonder, not that so many incompetent men came to America, but that so many men of excellent purpose and high aims could be found to undertake the undesirable and profitless task of serving the crown in the colonies. General Carleton summed up the position of the governors admirably when he wrote, "It may not be improper here to observe that the British form of government transplanted into this continent never will produce the same fruits as at home, chiefly because it is impossible for the dignity of the throne or peerage to be represented in the American forests. Beside, the governor having little or nothing to give away can have but little influence; in place of that it is his duty to retain all in proper subordination and to restrain those officers who live by fees from running them up to extortion; these gentlemen, put into offices that require integrity, knowledge, and abilities, because *they bid the highest rent to the patentees,*

finding themselves checked in their views of profit and disposed to look on the person who disappoints them as their enemy, and without going so far as to forfeit their employment, they in general will be shy of granting that assistance the king's service may require, unless they are all equally discontented or equally corrupt."

To the conditions above noted we must add the difficulties of communicating with dependencies three thousand miles away. Though packet boats were plying between England and the West Indies as early as 1704, and Blathwayt, the auditor general, urged the extension of the system to the American continent, particularly to Maryland and Virginia, "the most profitable colonies of any others," the main dependence, until 1755, was the merchant ship whose captain received the packets and boxes of papers and delivered them at the port for which he was destined. Such an irregular system meant endless delay and not infrequent loss. Despatches from England must have had strange adventures. Captains sometimes carried them on long journeys, handed them on from one boat to another, *dropped* them in the custom house where *they waited* a long time before delivery, or

dropped them overboard if there was any danger of capture. The replies underwent the same experiences, having to cope with a very slow, irresponsible, and expensive postal service, so that communication at both ends was frequently so long delayed that information was received too late for action. The period of despatch and answer was never less than three months, and thus the game of colonial management was generally played in the dark. Governors wrote their letters hastily, with but little chance of revision, postscripts were sometimes added while the ship was waiting, and other conditions prevailed not conducive to thoughtful and well-considered replies. The board was at times very dilatory in answering important letters, on one occasion allowing nearly three years to elapse before taking up the accumulated mass of colonial correspondence.

As far as can be determined at the present stage of investigation, the British system of colonial control was both inadequate and ineffective, and it would have remained inadequate and to a degree ineffective even if it had been honorably, consistently, and intelligently conducted, because at best it *was not designed to do the work that needed*

to be done. The British government made use of old machinery, constructed for a different purpose, to meet a situation that it only partly understood. The system was planned for no higher purpose than the furtherance of trade and commerce, it was quite incompetent to hold in control a growing people capable of independent life and restless under the bonds of a colonial policy that checked at critical points their freedom of action.

CHAPTER VII

COLONIAL STRUGGLE FOR SELF-CONTROL

HAVING considered briefly the system of administration in England we must turn our attention to the colonies themselves, in order to ascertain the position which they occupied in the eighteenth century, their relation with the government across the sea, and the influences which were at work creating among them a feeling and spirit of independence. Independence and separation from Great Britain were not achieved at a single stroke by war or otherwise, and the events of the years from 1763 to 1775 were but an outward manifestation of conviction and strength already attained during a century and a half of experience and endeavor.

At the outset distinctions appear between the mother country and the colonies that are characteristic of an old and a new society. England was a land of fixed traditions, the English people, conservative by nature, were peculiarly conservative during that stiff-necked eighteenth century, when institutions and political opinions were settling into an unyielding mould that was to resist all at-

tempts at reform for a century and a quarter. If statesmen could not understand the needs of the people in England, where aristocratic and proprietary notions thwarted every attempt to remodel the existing social and political systems, how could they understand the needs of the people of the great frontier of the west, where men and women were living lives freed from tradition and convention, in close touch with the physical world around them. Except in some of the tide-water regions of the south, the social and political atmosphere of America was essentially unlike that of the mother country. In such an atmosphere prerogative would find little sympathy, feudal ideas little permanence, and the employment of a colony's resources in behalf of absentee landlords and appointees was bound to meet with opposition and eventual defeat.

At the end of the seventeenth century there were more than two hundred and fifty thousand white people along the colonial seaboard. Sixty years later the number had increased to more than a million and a half. Virginia with sixty thousand was followed by Massachusetts, Maryland, and Connecticut in the order named, while Philadelphia, *the largest city*, had twelve thousand, and *Boston*, New York, and Newport, seven, five,

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and two and a half thousand respectively. The era of settlement was over and that of established government had begun. The colonies were no longer struggling plantations. In the issues of settlement they had solved the question of their own permanence, and in the dramatic scenes which had accompanied the insurrections of 1676 and 1689 they had expressed in no uncertain tones their dislike of autocratic rule. The Bacon revolt in Virginia in 1676 had been a protest of the new plantations to the west against the selfish and domineering rule of Berkeley and the older counties. The overthrow of Andros in New England had been provoked by the annulment of the Massachusetts charter and the abolition of representative government. The Leisler usurpation in New York had found its leading justification in the refusal of James II to recognize democratic institutions in that province. The uprising in Maryland had been directed against the selfish and oligarchic rule of the proprietary, in the interest, as the people supposed, of a Roman Catholic control of government. From all these conflicts the colonists emerged strengthened in their loyalty to popular rule, and more assertive than ever of what *they declared to be their rights as Englishmen.*

With the grant of representative government in New York, the series of popular assemblies in the colonies was complete. Though the electoral franchise varied widely, in general it may be said that the voter had to be a white man, twenty-one years of age, and possessed of property. Religious qualifications existed in Barbadoes, Rhode Island (1719), and South Carolina, where the voter had to be a Christian, in Virginia, where atheists were denied the right to vote, and in Maryland, where Roman Catholics were disfranchised (1718). The unit of representation was the town, county, parish, or precinct. The assembly was the mouthpiece of the colony and derived its authority from the people; the governor and council were the representatives of the crown and the prerogative in the royal colonies and derived their authority from England. Governor, council, and representatives formed the general assembly, a term that in some instances the popular body assumed to itself, and as time went on the lower house steadily extended its pretensions to all the privileges and powers of the House of Commons in England, a claim that the English authorities vehemently denied as illegal and unwarranted. *Nowhere in the eighteenth century, in either*

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royal or proprietary colony, were the people despotically governed; and no statesman or department in England had any serious intention of meddling with the political integrity of the colonies or of denying the right of the people to have a share in government. England's colonial policy was never designed to prevent the exercise of a reasonable amount of political autonomy, though to the Englishman of that day unalloyed democracy was neither necessary nor desirable.

The British government encouraged the self-reliance of the colonies because it wished to relieve the exchequer of heavy appropriations for colonial maintenance and protection. It refused to make permanent provision for defense, because it counted on such increase of population as would enable the colonists to defend themselves; while on the side of maintenance it is noteworthy that with the exception of Nova Scotia, Georgia after 1752, and the Floridas after 1763, no parliamentary grant was ever made for colonial administration in America. Great Britain expected every colony to stand on its own feet. Colonial territory was never incorporated as a part of the British kingdom, and the colonists were never brought under *the administrative regulations laid down for*

the government of the realm. Inevitably, therefore, they tended to lose more or less their identity as Englishmen and to become primarily attached to their local communities, as New Englanders, Pennsylvanians, Virginians, Barbadians, and the like, a result more conspicuous in the continental than in the West Indian colonies. Even as early as 1660, Massachusetts had deemed allegiance to the colony of greater moment than allegiance to the crown, and doubtless more than one colonist elsewhere rated at less than its face value an allegiance that was forced upon them in compulsory oaths at the time of departure. This tendency toward separateness was emphasized by the presence of thousands of foreigners, who owed no allegiance to the British government and to whom the colony of their residence was their *patria*.

Englishmen never made any serious attempt to sound the depths of such sentiment, though the secretary of state and the Board of Trade were well aware of its existence, labelling it disaffection and ingratitude. Whenever a movement more than usually troublesome took place, whether in the assemblies of Massachusetts or New York, or in the towns of New Jersey, the English *officials* interpreted it as an effort on the part

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of the colonists to rid themselves of dependency on Great Britain. "There is too much reason," wrote Newcastle to Burnet, "to think that the main drift of the assembly in refusing to comply is to throw off the dependence on the crown, which proceeding can in no wise be justified by their charter and never will be allowed by His Majesty"; and of the New Jersey riots of 1748-1749 the Privy Council said, "As the infection is daily spreading it will probably soon overspread the whole province of New Jersey and get into the two neighboring provinces of New York and Pennsylvania, and may in its consequence greatly affect the dependence of the plantations on the crown of Great Britain, if timely measures are not taken to stop it." Nothing more was intended by these remarks than that the colonists were restive under the restraints of the British system. Independence in the sense of separation was not seriously thought of either in England or America until after 1763.

The colonies were growing with remarkable rapidity. Eastwardly their ships were trading, not only with England and the West Indies, but with the cities of the North Sea, the Baltic, and the Mediterranean, with the *coast of Guinea*, and later with some parts of

the East Indies. Westwardly, the migrating New Englander, German, and Scots-Irish were filling the upland and back-country, and planters from the tidewater were staking land claims in the mountain valleys of Virginia and the Carolinas. In New York and New England frontier posts were springing up along the Mohawk, in the Berkshires, and upon the upper waters of the Connecticut, the latter of which were developing into towns of the old New England type, where the old standards of morality and education continued to prevail. As contrasted with the island colonies, where expansion was impossible, the settlements on the continent increased in number with each decade, enlarging the area of their trade and cultivation, presenting new and weighty problems for solution, and creating conditions favorable to individualism and the spirit of self-support. A new generation was arising that knew little of British government and policy, and whose horizon was bounded by the older, settled area that represented to them the region of privilege and fixed traditions. A more primitive but more democratic and independent society was gradually emerging, *the peculiarities of which were American rather than English, and out of the conflicts*

that followed with the older settlers and England an American nationality was born.

Legally and in practice all the colonies were dependent on the crown of England. Such dependence it was the object of British statesmen to maintain, for in their estimation and in the estimation of the mercantile classes such dependence was essential to the preservation of British prosperity. Lord Mansfield struck at the root of the trouble in 1765, when he said in the debate on the repeal of the Stamp Act, "The Americans may think they have a right to an open trade and establishment of manufactures. What then would become of us?"

In actual operation dependence involved definite limitations upon the self-government and economic freedom of the colonies. By the imposition of certain feudal obligations, the greater number of the colonists were not full owners of the lands they occupied. By the right of king or proprietor to control the executive and judicial branches of their government, to instruct the governors, repeal legislation, and admit appeals and complaints from colonial courts, the colonists were subject to control and interference on the part of the sovereign power beyond the seas. By the asserted right of parliament to

legislate regarding trade, and to compel the colonists by statute to conform to England's declared policy of using the colonies as sources of supply for the mother country, they were deprived of the full use of their own resources and compelled to adapt themselves to England's industrial and economic needs. Every act or practice that represented interference on the part of king or proprietors in the affairs of the colonists and served as a check upon entire freedom of life and government can be brought under one or the other of these heads. The movement toward independence consisted in the throwing off of these restraints as far as it was possible to do so.

During the colonial era all the middle and southern colonies were feudal territories, the lands of which were owned by an outside lord, king or proprietor. Such title to the soil carried with it certain feudal incidents, well known to English land law and practice, that represented the relationship between a lord and his tenants. There were so-called manors in New York, New Jersey, and Pennsylvania, actual manors in Maryland, baronies in South Carolina, and traces of such incidents as view of frankpledge, forfeiture, and escheat, in many of the colonies. The *law of descent* in Virginia was by *primo-*

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geniture, the succession of the eldest son, various feudal forms of land conveyancing prevailed, and many courts baron and leet must have been held in Maryland, though the record of but one has come down to us. But most of these survivals are negligible factors in colonial life.

One practice, however, the payment of quit-rents, did not die. It remained to become a source of trouble in every continental colony from New York to Georgia. Land in these colonies was not held in full ownership, as it was in New England and Bermuda. Each colonist, who was a freeholder, was a tenant, paying to king or proprietor a small sum in recognition of the higher ownership and as quitting the land of all further obligations. The sum, thus called a quit-rent, was small, from one to four shillings a hundred acres, but the colonists never liked it and resisted the payment of it from the beginning.

The collection of quit-rents was a perennial source of trouble. The payments were always in arrears, and attempts to apply the feudal penalty of forfeiting the land were so obnoxious to the colonists and so manifest a retarding of settlement that forfeiture was forbidden by law in Virginia and rarely *enforced elsewhere*. Distraint at common law

was the customary form of legal procedure, involving the seizure of some of the colonist's property for the non-payment of rent. Of all the colonies New Jersey was the most obstinate, and in the middle of the eighteenth century the inhabitants there engaged in riots of a threatening character, when efforts were made to enforce payment. Maryland was the most tractable colony, paying the rents without marked dissatisfaction to the extent of some £8000 a year. The other colonies contributed much less. Virginia, South Carolina, Pennsylvania, and North Carolina paying from £3000 to £1000, with New York and Georgia furnishing but small amounts, and New Jersey paying practically nothing. In some colonies the question was fought out in the assembly, in others in the courts, in northern New Jersey in the streets. In New Jersey and Pennsylvania refusal was based on a denial of the right to collect; in Maryland and the south on a feeling that a feudal tenure was out of place in a frontier country. The opposition was as strong in the royal colonies, Virginia, New York, and after 1730, the Carolinas, where the quit-rents were collected for the crown, and part *of the money* was spent on the colonies themselves, as it was in the proprietary colonies,

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Maryland and Pennsylvania, where the money went to the proprietors. By resisting the payment of quit-rents the colonists sought to transform their tenancies into free property; to retain all the resources of the colony for themselves and so to eliminate the absentee landlord; and, lastly, to prevent the crown from obtaining a permanent revenue from the land by means of which crown officials might have been freed from dependence on the representatives of the people for their pay. The whole quit-rent struggle is thus intimately bound up with the colonial movement toward independence.

More significant even than the resistance to quit-rents was the long-drawn-out warfare which went on in every colony, except Connecticut and Rhode Island, against the right of king or proprietor to control the government through their appointees, the governors. King or proprietor appointed the governor, and in the case of the proprietor the crown confirmed the nomination under certain conditions. The governor's powers, which were very extensive, were granted, in a general way, by means of a public commission issued under the great seal, and more in detail by elaborate instructions, not intended for publication, sent privately and

often secretly under the king's sign-manual. Additional and special instructions were issued from time to time. In scope the governor's powers, as defined in these important documents, were co-extensive with those of the crown itself, being in some particulars even greater, as in the case of the veto on legislation, which no British sovereign exercised after 1707.

With the growth of the popular assembly after 1690, the struggle took the form of a contest between the royal prerogative, represented by the governor and the council on one side, and the representatives of the people on the other, and thus resembled the corresponding conflict in England at the same time. The king was exercising an authority that he had a legal and historical right to exercise, while the colonists, unimpressed by the legal and historical argument, were endeavoring to obtain, as far as they could, control of their own affairs. The position of the governors was far from easy. They faced a very determined body of representatives who made bold and persistent attempts to encroach upon their authority and to tear away from them some of their powers. Their *position* was often lamentably weak; they *were* frequently unsupported by the home

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government and though they might count on the Board of Trade they could never be sure that the secretary of state would not intervene. Codrington once wrote, "I had much rather have a furlough than a new commission. My honor is much dearer to me than an employ more valuable than mine is and if an English gentleman is to be perjured, clamoured, and voted out of his reputation without being allowed a hearing a Frenchman or even a Turk has no reason to envy an Englishman, I act with as much caution in everything I do as if I were walking between red hot irons, and act with the same sincerity as if I were to die to-morrow. The colonies abroad will be governed as they ought to be, when governors are made independent of their assemblies, and after that hanged up when they don't do their duty." The colonial governors were not as a rule great men, some of them being inefficient and incompetent, but the fault lay less with the men than with the system, which provided for a form of government that never did work as it was intended to do.

The most important illustration of this statement is the struggle for the control of the purse, the time-honored instrument *used by the parliament of England to gain*

its ends. According to "ancient custom," the king controlled all the revenues of a royal colony. The assembly voted the money, which was placed in the hands of a treasurer or receiver general, who paid it out on the order of the governor. Books of accounts were to be kept and transmitted half-yearly to the Treasury in England, there to be examined and audited, that the king might be "satisfied of the right and due application of the revenue of the plantation." This method of procedure, which was restated very emphatically in special instructions sent out in 1732, did not suit the assemblies, which from the first disputed the right of the governor to control the expenditure. In Massachusetts, New York, New Jersey, Pennsylvania, and the Carolinas, the assembly asserted, and asserted successfully, their power over the finances. In Georgia, which came late into the struggle, the conflict was fought out during the war with France. The home government trained by experience kept a firm grasp upon the colony, while the Georgian assembly, with the example of the other colonies before it, resorted even to force, its members, on one occasion, following the precedent of the *English* parliament of 1629, holding the

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speaker in the chair, while business was transacted, and seizing the books of the clerk, that the record might be altered to suit their purposes. Even in Bermuda and Barbadoes the assemblies, though never asserting their claims in so high handed a manner as on the continent, had many conflicts with the royal prerogative, some of which they won and others compromised.

Equally important with the encroachment of the assemblies on the financial functions of the governors was their determined refusal in nearly all the colonies to establish a permanent civil list, which the crown might use for the payment of the governors' salaries and for the defense of the colonies in time of war. Hard as the Board of Trade tried to obtain such a revenue and strenuously as the governors sought to force the assemblies to appropriate it, their efforts met with no success, except in Jamaica, where the assembly drove a hard bargain with the British authorities by compelling them to concede control over legislation for a grant of £8000 a year. In the other colonies no such bargain was made, for the assemblies knew that a permanent civil list would render the governor independent of their control. By voting the *governors' salaries* year by year the assem-

blies over and over again bent the governors to their own will and compelled them to yield even when the instructions of king or proprietor ordered them to do otherwise.

The Board of Trade was fully aware of the difficulty and of the danger to the royal authority in the colonies. "It appeared," the board said in 1725, in its report on Shute's quarrel with the legislature of Massachusetts, "that the point contended for, was to bring the governor to a dependence on their goodwill for his sustenance, which would manifestly tend to the lessening of his authority and consequently of that dependence which this colony ought to have upon the crown of Great Britain, by bringing the whole legislative power into the hands of the people," and, believing that it was "absolutely necessary that the independency of the governor on the assembly be preserved," it made many efforts to persuade parliament to enforce its orders or to settle a fixed and permanent salary out of the royal exchequer. But parliament and the secretary of state refused to cooperate and consequently the Board of Trade was as helpless as the governors themselves. The colonial assemblies found *their* best ally in parliament, which postponed till the end of the colonial era a policy

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of coercion, which had it been applied at the beginning of the eighteenth century might have altered the course of our history.

By 1750, in nearly all the colonies, the assembly had become the most influential factor in government. In New York, where the victory was first won, the overthrow of the royal prerogative was so complete that the Privy Council could say in 1754, "The assembly have taken to themselves not only the management and disposal of the public money, but have also wrested from your Majesty's governor the nomination of all officers of government, the custody and direction of all military stores, the mustering and regulating of troops raised for your Majesty's service, and in short almost every other executive part of government." Nevertheless the Board of Trade was still asserting that there was "nothing so necessary to the preservation of his Majesty's government in the colonies as the careful and strict maintenance of the just prerogative," and the Privy Council could deny with great emphasis in 1765 the contention of the assembly of Jamaica, that its privileges did not flow from the grace of the king but were rights inherent in themselves, and five years later could still *affirm that the* "House of Assembly [of St.

Christopher] seems to have corrupted its own constitution by affecting a power which they have not, analogous and co-equal to that of the House of Commons of Great Britain.”

Despite the refusal of the home government to accept the inevitable, the fact remains that before 1760 the royal control in the colonies was largely destroyed. Colonial officials, though still appointed by royal warrant, were in a majority of cases dependent on the assemblies for their salaries and the amount of their fees. Only in Virginia, the Carolinas, Bermuda, and the Leeward Islands, where the governor and other officials were paid out of such royal revenues as the quit-rents, four and a half per cent duty, and certain export dues and licenses, was the independence of the governor in a measure attained. Though the crown was claiming the right to extend the privilege of representation to new towns and counties and so evidencing its distrust of the elective element in the colonies, nearly all the assemblies had taken that power to themselves, and continued to exercise it despite orders to the contrary in the governors' instructions.

Thus colonial government was no longer in the hands of the royal officials; the authority of the royal and proprietary governors re-

laxed; they lost their patronage, their control over the military, their ability to employ secret funds, to check riots and revolts, to manage a police or to take any adequate measures to ensure security at home, or to protect the frontiers against the French and Indians. The helplessness of the governors in military matters is strikingly illustrated during the French and Indian war when the assemblies of such colonies as Pennsylvania, Maryland, and North Carolina were so busy defending the constitutional powers they had won that they disgracefully neglected the common cause of defense against the enemy.

As we have already seen in a previous chapter the colonies were subject to control at the hands of the crown in another important respect. The laws of nearly every colony were subject to the scrutiny of the higher authorities in England. If the king in council approved of the laws they were returned to the colony and became a permanent part of its legislation until their expiry or their repeal by the colonial legislature. This right of the king to disallow colonial legislation was a very real check upon self-government. A colonial law had to pass, not only the veto of the governor in the colony, but also *the royal disallowance in England before it*

could take effect. The king himself, of course, had nothing to do with the matter. In most cases the Board of Trade settled it with the advice of its lawyers, and this power became a weapon of no little importance in the hands of the board. It is idle to say that the weapon was never wielded or was rendered useless by colonial strategy. During the period from 1675 to 1775 probably more than five hundred laws were disallowed for the continental colonies alone, and never was a more rigid scrutiny exercised than after 1770, when "Omniscient" Jackson, a strict constructionist of unbending type, was the legal adviser of the board.

How far such disallowance of colonial laws was reasonable or unreasonable cannot be discussed here. Acts were disallowed which were deemed prejudicial to the king's prerogative, to the property of his subjects, and to the trade and shipping of the kingdom, or were contrary to the law of England; others because they were badly drawn or had some verbal defect in the title or elsewhere. As a rule the law officers were very careful in their scrutiny, and though they objected to many laws that were hostile to British interests they frequently saved the colonies *from much ill-advised and hasty legislation.*

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They rarely interfered to the manifest injury of the colonists and frequently recommended laws that were not in accord with a strict interpretation of English statutes. On one occasion a report read, "This is a very good act and seems better calculated to serve the end intended than all our statutes and amendments." There was always the chance of a further hearing before the Privy Council committee, if the colony so desired, though the procedure was slow, cumbersome, and vexatious. The Board of Trade sometimes reversed the opinion of its adviser, and the Privy Council, acting on the advice of the attorney general, sometimes reversed the opinion of the board.

The exercise of the royal right of disallowance was very irritating to the colonists, not so much because it repealed legislation as because of the long delay which kept the colony in a constant state of uncertainty. A number of years might pass, particularly in the royal colonies, before the royal decision was known, and during that time the act would be in operation with the people wholly in the dark as to its eventual fate. Sometimes the colony passed temporary laws that were designed to operate but for a short time; sometimes they re-enacted the law under a

slightly different form, but generally such re-enactments were merely attempts to meet the objections of the home authorities, and were not infrequently due to requests of the board that the law be passed again with the obnoxious clause left out. In a few cases the colonists paid no attention to the royal act of intervention, but such disobedience was rare. In general it will be found that the exercise of the right of disallowance was a salutary measure of control. But the fact that it was heartily disliked by the colonies who were unable successfully to evade it or to prevent it is in itself important. What troubled the colonists was that an authority outside of themselves could limit their power to legislate in their own behalf, that is, could prevent them from doing what they pleased, whether for their own good or otherwise.

The same restlessness under restraint is seen with equal distinctness in the royal right of hearing complaints and grievances from America and in receiving appeals from the colonial courts. Many of the colonies resisted strenuously this prerogative claim of the crown to be the court of last resort and the fountain of justice and equity in matters colonial, and they employed their *agents* in London actively in the business of

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bringing these appeals to naught. Both Connecticut and Rhode Island denied with vehemence the right of the king to interfere, and perhaps in so doing served to strengthen the hands of their enemies, for in both colonies the right was exercised with very telling effect. Indeed, throughout the colonial period, the presentation of complaints and grievances was a common matter, while in the eighteenth century, particularly from 1760 to 1770, when the number of cases reached 134, appeals from the colonial courts were made with increasing frequency. In all these cases the Board of Trade, which considered these complaints and reported on appeals, when the question involved was one of fact and not of law, acted with exemplary fairness. The members took great pains to sift the complaint to the bottom and to render an impartial decision. The committee of the council, which alone considered questions involving legal procedure and interpretation, did likewise, but the difficulty of getting exact information was very great and in some cases, notably the annulling of the Connecticut Intestacy law, there can be no doubt that it acted unwisely.

When we consider the distance from America and the material upon which the board and the council committee and their advisers

had to base their decisions, we may wonder, not that they made mistakes, but that they made serious mistakes so rarely. Their very desire to be just undoubtedly prolonged the hearings and increased the impatience of the colony for a verdict. The claim of Lord Fairfax to lands in Virginia was before the council for twelve years, the delays seemed interminable, while the expenses were correspondingly great. The Mac Sparran claim to lands in Rhode Island waited nearly sixteen years before it was finally rejected, and for eleven years it lay pigeon-holed in the Privy Council office. The case of Connecticut versus the Mohegan Indians, which came before the council in 1704, was not finally settled in favor of the colony till 1773. Most remarkable of all, though delayed by diplomatic negotiations, was the claim of Jeronimy Clifford, whose estate in Surinam had been seized by the Dutch after the exchange of that land for New Amsterdam in 1667, and whose legal representatives were still petitioning the council in 1766, nearly a century later. The extant documents in the case would fill a bulky volume. On the other hand many decisions were rendered promptly, *within* the year after the petition was received, and it is clear that delays were not

always, or even generally, the fault of the board. Plaintiffs and respondents were equally dilatory, and in 1728 the council, complaining of the failure of counsel to attend, "whereby great delays have arisen in the causes depending before them," declared that henceforth the hearing would go on whether counsel were present or not.

Inevitably the British government upheld constituted authority when it could, and in the main supported the governors against colonial complaints. Nevertheless there are enough instances of the removal of governors for cause, as of Cranfield of New Hampshire, Cony of Bermuda, and Cornbury and Hardy of New York, to show that it would not uphold the governors in any cases of maladministration. But where the governors were simply endeavoring to carry out their instructions and to defend the royal prerogative, the board had little patience with the colonial side of the case. For this reason, taking into account the whole question of disallowance, appeals, and complaints, it is probable that in the long run few aspects of British control, either trade laws or restrictive measures, contributed more to the growth of an independent American spirit and of a sentiment, *half unconscious* though it was, favorable

to an ultimate separation from Great Britain, than did these various assertions of royal authority, legally right though they were. And the exercise of this authority was the more effective because in so many cases it was successfully enforced.

In another legal matter, the extension of the English common and statute law into the colonies, the results were equally interesting. The refusal of the colonists to admit English law in its entirety was due, not so much to positive resistance, as to the inability of a new country to make use of laws manifestly adapted to a higher and more complex order of society. Despite the theory of many English lawyers that the common law of England went wherever the colonists went, the fact remains that English law was formally adopted by statute in but one of the colonies, South Carolina (1712). New England rejected it altogether and made the word of God the guide of its courts and the basis of court decisions, and with some important exceptions refused in the beginning to admit any outside legal principles as governing its action in any respect whatever. In other colonies the common law and practice of England frequently prevailed, but all *the early law* was informal and popular, based

on a natural sense of justice and equity rather than on formal principles already defined. New York and the southern colonies generally accepted the common law, where it was suited to the circumstances of their life and government, but they all departed in many essential particulars from English precedents and procedure.

As the colonies became more settled and frontier conditions gave way to more conservative forms of social order, common-law rules entered more largely into their legal relations, though certain colonies, such as Pennsylvania, introduced modifications of considerable moment into the history of law in this country. Indeed we may say, that before the Revolution American common law had reached a more advanced position, as regards fairness, simplicity, and rapidity of procedure, than had the common law of England, and it is a noteworthy fact that such colonies as Pennsylvania, Virginia, and South Carolina, where no attempt was made deliberately to throw off connection with the principles and practice of English law, bred lawyers of greater ability and wider legal knowledge than did New England during the same period. The latter colonies *claimed too great a legal independence.*

Statute law, except as it referred to the colonies specifically or was adopted by a colonial legislature as the law of the colony, was generally rejected in America. In most of the colonies very few statutes of the seventeenth and eighteenth centuries were ever adopted or treated as binding on the courts. It was easy to keep out the statutes; they were printed documents, often very long and bearing special titles, such as the Test Act, the Habeas Corpus Act, the Triennial Act, and the Toleration Act. They could not be smuggled in without detection, and very few ever did get in that from the colonists' point of view were undesirable. The Test Act was enforced in some cases, though the attorney general of England, when the question was presented for his opinion, said that it did not apply to the colonies. The Triennial Act was adopted more widely, and the Toleration Act was generally approved. But the common law was another matter; it was unwritten law, it was customary law, it could be brought in in men's minds and could be used almost without suspicion. It came in, and kept coming in, in larger and larger quantities, as more men came over *who* were learned in the law or colonials went *to England* and were trained in the law.

Finally it came in in the form of a great book, the *Commentaries* of Blackstone, just before the Revolution, and some 2500 copies, we are told, were bought in the colonies.

The legal independence of the colonies lies in the fact that the common law was never forced on the colonies by any of the national law courts at Westminster Hall; it was dispensed in American courts only. As it developed it departed from its original form and became American common law, not English, though its main features had their origin on English soil. The English law in America won its victory over the Roman Law planted in those parts of the present United States that were settled by the Spaniards or the Dutch, but the colonists won their victory over the English law when they rejected only such parts of it as they manifestly needed. Legal unity throughout the British empire did not exist in the eighteenth century. Legal separation had already begun when the colonists passed laws that even the legal advisers of the crown acknowledged were necessary to the existence of the colony, even though such laws were not in accord with the corresponding law in England.

CHAPTER VIII

EVASION OF THE ACTS OF PARLIAMENT

WHILE the colonists were showing their determination not to be bound by the terms of the king's authority and were resisting to a greater or less degree the royal right of disallowance and appeal and the introduction of English law, they were also displaying a similar determination to be free from the bonds of the British system in matters of trade and commerce. In this respect, at least, they were defying the power of parliament, for since 1660 the legislative body of Great Britain had passed a great many acts limiting trade, forbidding manufactures, encouraging the production of raw materials, and providing for the proper administration of the measures thus laid down. No colonist ever seriously denied the right of parliament to legislate in the interest of England's commercial supremacy, or to take such steps as were necessary for the protection of British industries from colonial competition. They accepted this long series of parliamentary acts, not always *without* protest, but *without* denial and

without serious demur. In endeavoring to control colonial trade and to limit colonial industry, the British government was merely upholding its policy, so often declared, of maintaining the dependency of the colonies on the crown as essential to the prosperity of the mother country. It tried by every means in its power to encourage the colonists to devote their whole time to the production of raw materials. It took off all export duties on manufactured woollen goods and iron ware, that the colonists might obtain these articles from England as cheaply as possible. It removed the duty on colonial raw iron imported to England, that the iron industry in America might be encouraged. It prohibited the raising of tobacco in England and increased the duty on Spanish tobacco, that the colonists might have a complete monopoly of the English tobacco market. When it was seen that the exportation of rice from South Carolina and Georgia to Portugal was not detrimental to British commerce and was directly beneficial to the colonies, the government permitted this staple to be carried to the continent south of Cape Finisterre, that is, to Spain, Portugal, and the cities of the Mediterranean. *Later it extended the market to*

include Africa, the African islands, and South America.

Probably in the long run the navigation acts, with their requirements regarding British manned ships, enumerated commodities, and foreign manufactures imported into America, rested but lightly on the colonies. Certainly for the greater part of the colonial period the natural market for sugar and tobacco, the chief colonial products, was England, and England gave to these staples a complete monopoly of her market. How far the natural inclinations of the colonies were thwarted by the navigation acts and how far these acts limited their commercial freedom, not in theory, but in actual experience, are questions that are hardly capable of satisfactory answers. Individual complaints were frequently heard and cases of individual hardship can easily be found to illustrate the argument for the colonies, but it is not reasonable to conclude that colonial trade as a whole was seriously hampered because the restricting of the market wrought injury in specific cases. The southern and West Indian colonies prospered under the navigation acts, and so different were the physiographic conditions that what benefited the tropical colonies was likely to

prove prejudicial to the middle and northern colonies and vice versa. The Molasses Act of 1733, which was designed to improve the condition of the British planters in the West Indies, was a matter of great concern to New England, while the clause regarding enumerated commodities, which concerned the whole southern range of colonies, scarcely affected New England at all.

The methods employed to carry out the acts troubled the colonists more than the acts themselves. As early as 1676 collectors and other customs officials appeared in America, and during the forty years that followed they were extremely pertinacious in their attempts to perform their duties. About 1700 the collectors were aided by courts of vice admiralty, the organization and procedure of which were those of the civil not the common law, and were in consequence as thoroughly disliked in America as they were in England, because they seemed to encroach upon the jurisdiction of the common-law courts. During the first quarter of the eighteenth century the customs and vice-admiralty officials were a constant source of irritation to the colonists, not merely because these officials tried to collect duties and condemn ships suspected of illegal trade, but

because they did so with an excess of zeal which led them into frequent conflicts with the colonists. They not only concerned themselves with their legitimate duties, but they also constituted themselves censors of colonial management in general, and they were disliked quite as much because they were busy-bodies as because they were royal officials. After 1715 much of the friction was removed. The later officials showed less inclination to find fault and in general proved a slight check upon colonial freedom in matters of trade.

The customs system in America, while it accomplished something in the way of adding to the royal exchequer a small amount of revenue, proved very lax, and though the Board of Trade often sent mandatory letters both to the governors and the collectors to carry out their instructions, it was entirely helpless when it came to the test of compelling obedience. Probably no single collector or surveyor in the colonies was able to live up to the orders that he received, and it is also probable that few of them made any serious effort to do so. Royal officials in the colonies were not well rewarded either in pay or gratuities for *what they accomplished*, and were frequently

turned aside from the strict performance of their duties by the opportunities for gain which connivance furnished. Salaries were often in arrears, fees were controlled by the assemblies, and the men who actually did the work in America were in a large number of cases deputies of those who received the original appointments and drew the highest pay. It was an age of sinecures, reversions, and pluralities in both church and state.

We cannot measure and we probably will never be able to measure the exact amount of smuggling and illicit trade that went on in America during our colonial era. It certainly was no greater and was probably far less than that which went on in England, Ireland, and Scotland at the same time, at Londonderry, Greenock, Ayr, Dumfries, Penzance, and the Channel Islands. The colonists did trade illegally with Scotland, Ireland, and the Continent (Holland, Spain, and Portugal), with the Channel Islands and the French and Dutch West Indies; they smuggled into America manufactured goods, wines, and brandies from foreign countries; and they did these things with the coöperation of the very officials that were sent from England to prevent it. But the number of such *breaches* of the acts, as compared with

the whole volume of colonial trade, was probably not large, and smuggling in America never took the form of a bloody war such as was fought along the English and Scottish coasts in the eighteenth century, when the secretary at war had to send dragoons into the counties to assist the excise men against the smugglers. Illicit trading was done in an age when official morality was at a low ebb and when bribery and the iniquitous fee system were closely related the one to the other. Many of the lesser officials in America were dependent on fees for their support and their palms were always itching for the wherewithal to live. The very fact that the colonies grew greatly in wealth and comfort from 1715 to 1760 is sufficient proof that neither the navigation acts nor the restrictive measures seriously interfered with their natural commercial growth.

The northern and middle colonies never adopted themselves naturally to the British colonial and commercial scheme as did the southern and West Indian colonies, and every effort to compel them to do so ended practically in failure. The trade of New England, New York, and Pennsylvania was not so much with England as with the Mediterranean, the Azores, and particularly

with the British and foreign West Indies, which they supplied with lumber, provisions, cattle, horses, and fish. By this trade the colonies north of Maryland gained the ready money, which they could procure in no other way, whereby to purchase of England the large quantities of manufactures which they received yearly and for which they paid in cash or by bills of exchange. To restrict or prevent this trade was to imperil northern prosperity, yet in the eighteenth century England was willing to do so. Owing to circumstances connected with the economic life of these islands the British colonies in the West Indies were suffering from the competition of their neighbors, the Dutch and French islands, who were able to undersell them in the Continental and colonial markets. Colonial ships from New York or Philadelphia would carry their provisions, horses, and lumber to Jamaica, for example, and there instead of exchanging their products for molasses and sugar would sell for cash and pass on for their return cargo to the French or Dutch sugar islands, where they could buy at better rates. The British planters, despoiled of a profitable market and stripped of their coin, were threatened *with ruin and sought the aid of parliament.*

After many efforts they finally obtained the passage of the Molasses Act of 1733, whereby the colonists were compelled to pay heavy duties on all molasses, sugar, and rum obtained from the foreign sugar islands.

Had the act been enforced it would have cut off the northern colonies from one of the most important sources of their wealth, because, as New York claimed in an address to the king, the British islands could not take all their staple products, and to limit the colonial market would lead, not only to a glut of their own commodities and a consequent fall of prices, but also to a cutting off of a neighboring market where money could be spent to better advantage than in the British colonies, Jamaica, Barbadoes, and the Leeward Islands. To limit the market to the latter islands would mean inevitably a rise in the prices of sugar, rum, and molasses and a draining of the northern colonies of what little coin they had. While exact evidence of the evasion of the act of 1733 is difficult to obtain, it is clear from contemporary expressions of opinion that the northern colonies continued to trade as before with the foreign West Indies. The colonists had to break the law in order to *live*.

England, however, made notable efforts to bring the northern colonies within the terms of her own policy and to direct their energies into the proper channel, the raising of raw materials. Though the northerners could furnish neither sugar nor tobacco they had wide forests from which, in the eyes of those concerned, endless supplies of naval stores could be procured. Urged on by merchants, factors, and colonial governors, the Board of Trade recommended to parliament the passage of acts providing for heavy bounties on all those things that the navy needed and which the colonies might produce. The efforts in this instance were successful and parliament passed the desired legislation. Then the board took up the prosecution of the work in earnest. It sent over commissioners to teach the colonists how to prepare pitch, tar, and turpentine, and how to grow hemp; it obtained the passage of another act reserving for the use of the navy all mast trees of a certain dimension, in woods not in private hands growing north of Pennsylvania; it caused to be appointed a special surveyor of the woods, whose business it was to range over this northern territory and to mark with *the king's broad arrow* trees that were suited

to the royal purpose. And it did these things not once but many times, pursuing its purpose with energy and determination for forty years.

But scarcely one of the measures really succeeded as far as the northern colonies were concerned. The southern colonies, notably South Carolina, sent over a good deal of tar and pitch, but New England and New York were not to be turned from their natural bent toward agriculture and the homespun industries, and the people of New Hampshire and Massachusetts treated the king's orders pretty much as they pleased. The lumber trade of New England was as important as the provision trade, and formed a necessary and component part of a life that was intimately bound up with ship-building and the providing of all the boards, planks, pipe-staves, beams, and clapboards used in the West Indies for building and other purposes. The production of naval stores was to a greater or less extent detrimental to both these interests and was hampered by a consistent policy of evasion and obstruction. The contractors employed by the surveyors of the woods and the men licensed by the crown to fell trees in New *England* had their men driven off by the

Indians, were sued by the owners of lands for damages done, or were obstructed by the loggers who on several occasions ducked their employees in the rivers of New England. The loggers outwitted the royal officers and cut down the best trees, while the proprietors of lands either destroyed the trees when felled or obstructed their passage to the waterside. The colonists brought action against the royal workmen for felling mast trees and for cutting down other trees in order to make a road for hauling, and in both cases were able to recover damages. Suits for trespass were constantly pending in the New England courts. The New England governors upheld very lukewarmly the royal commands; the colonial courts could not be got to convict offenders; and the inhabitants in general defied the royal officials, threatened their lives, and ridiculed their pretensions. The conflict went on nearly to 1760, and in the end the royal authority was compelled to give way before the determined resistance of New England. As far as concerned the raising of naval stores, the reservation of mast trees, and the trade with the foreign West Indies, the economic independence of New England was very largely *maintained*.

No phase of colonial history shows more clearly the situation that existed in the middle of the eighteenth century than the persistent trade which the northern colonies, and to some extent the southern also, carried on with the enemy during the French and Indian war. From 1756 to 1761, when Great Britain was fighting in India and America and on the Continent, was subsidizing Frederick the Great, and was paying out large sums to recompense the American colonies for their share in the attacks on Canada, the colonial merchants, ship-owners, and captains were engaged in commerce with the French to England's injury and their own profit. Among the French West Indies, on the Gulf of Mexico, chiefly at New Orleans, and along the northern Canadian frontier, colonial provisions were carried to the enemy by means of every channel and opportunity that the war afforded. Colonial merchant ships went to the French West Indies under flags of truce for the exchange of prisoners, but instead of French prisoners they carried contraband of war; and instead of returning with their own people freed by the exchange they brought back coin and sugar. They flocked to the Dutch island of St. Eustatius and the

Spanish town of Monte Christi, and these West Indian harbors became veritable clearing houses of traffic with French merchantmen and ships of war. All the northern colonies engaged in this business without compunction, Rhode Island and Pennsylvania being the greatest offenders, though even Virginia and South Carolina could not keep clear of this alluring opportunity of making a profit at the expense of their allegiance to the British crown. The trade with New Orleans enabled the French to extend their influence over the Creeks and Cherokees in the south and so to menace the South Carolina and Georgia frontiers; the hundreds of colonial ships that went to the West Indies, not only enabled the French fleets to stock themselves with provisions and to fit out privateers against the English, but they also saved the French colonies from the danger of being starved into surrender.

The results of this illegal trade with the enemy, as far as the British were concerned, were twofold in their injury: they rendered provisions scarce in America and prevented the armies of Amherst and Forbes from obtaining an adequate supply; and they raised the price of provisions to such a height that *it was cheaper to send the provisions from*

England than it was to buy them in America. Zealously as the British navy sought to break up the practice, it was never successful, for though often checking the trade for a time it was outwitted in the end by the ingenuity of the colonists. The significance of this extraordinary aspect of American activity during the war lies, not so much in the independent commercial spirit which it displayed, as in the fact that the colonists seemed wholly unaware of the disloyalty to England that it involved. They allowed their eagerness for commercial gain to cloud their sense of obligation toward the mother country in time of war. Perhaps it is only fair to say that the determination of the colonies to neglect imperial interests to the advantage of their own prosperity was but the counterpart of Great Britain's declared purpose of using the colonies as a source of profit to herself. In one sense the attitude of the colonies was merely a defiant but logical expression of resistance to the policy which Great Britain had been endeavoring to carry out for a century.

Similar relations between Great Britain and the colonies in the eighteenth century *could* be discovered in other directions. *Difficulties* over colonial boundaries, not one

of which had been settled in 1700, often led to royal intervention, whereby colonial legislation was invalidated by the Privy Council, acting on the recommendation of the Board of Trade setting as a kind of high court of arbitration. England's financial policy, as seen in the attempts to regulate the coin of the colonies in 1704 and the constant disallowing of all acts passed in the colonies for the issue of bills of credit or paper money, was wrecked because the colonies would conform to it as rarely as possible. The attitude of the British government was determined by commercial requirements and not by any adequate understanding of what the colonies wanted or ought to have. The persisting repeal of acts of this character irritated the colonial assemblies, which may not have been very wise but which were at least more familiar with colonial finances than was the Board of Trade. An age which saw the successful operation of the Bank of England might have been interested to do something to provide for the colonies a more stable form of circulating medium than that which they possessed. But no steps in that direction were ever taken by the board, because its interest *in colonial finance was limited entirely*

to the commercial welfare of British merchants.

In view of the ends which British policy sought to attain, it is not surprising that loyalty to England in the period before the Revolution did not exist among the colonists as a whole. Even though, in official utterances, colonial leaders proclaimed loudly their loyalty to the crown, and even though such prominent men as Adams and Jefferson, in public address, gave out words expressive of loyal sentiment, the words were unaccompanied by deeds and by that spirit of sacrifice without which true loyalty cannot exist. Colonial records fail to disclose a single instance where the colonies, through their assemblies or through the action of any considerable number of their people, yielded voluntarily and willingly on any question where the legal rights of the mother country came into conflict with the determination of the colonists to control their own affairs. From the beginning, whether the immediate authority over them was a company, a proprietor, or the crown, the colonists in one way or another, at different times and under different conditions, made every effort *to rid themselves of every right, practice, or institution that prevented a free exercise of*

their own government or ran counter to their own economic needs. Where the interests of Great Britain did not clash with the material or political interests of the colonists, the latter conformed to acts and instructions emanating from parliament or king, but where the advantages were manifestly with the mother country alone the colonial opposition was determined and unceasing.

It is not surprising that England and the colonies should have been in conflict when their aims were so diametrically opposed. England's interest in the colonies was but one of many concerns that perplexed the statesmen of the eighteenth century. Many of the controversies, due to orders and instructions drawn up three thousand miles away and based upon a somewhat doctrinaire view of the place that colonies ought to occupy in the plan of a great empire, were only half-heartedly supported by those entrusted with royal authority. To British officials colonial questions were a thing apart, to the colonists the principles involved were essential to their very existence. Self-control became the breath of their life, the most vital part of their effort to build up strong and healthy communities, in which *comfort, happiness, and solvency* should be the

determining features of their success. Hundreds of such efforts in the direction of independence, expended during a period of a century and a half, were creating, line upon line, a situation in which independence of outside control was becoming the most conspicuous feature of their history. In this way was colonial independence won, before a single American leader had dared to deny his allegiance, to raise his voice in behalf of separation, or to take up arms in a military struggle for the severing of the legal ties which bound him to the mother country.

CHAPTER IX

ATTEMPTS AT COLONIAL UNION

THE movement of the colonies toward independence of the mother country in all that concerned their daily life and government was not necessarily accompanied by a corresponding movement toward union among themselves or the growth of a distinctive American national feeling. In the seventeenth century the colonial settlements were small, isolated, and obscure. They were confined to the coast or to the lower waters of the navigable rivers, each in a world by itself, surrounded by forests that were difficult to traverse, and confronted by frequent dangers from wild animals and the Indians. Rivers and coast waters were the customary highways of travel, and, except along certain beaten paths, few were sufficiently venturesome to pass by land from one colony to another.

New England with its frequent migrations and planting of new towns developed a community of interest which led to repeated journeyings from one section to another. Communication between Long Island, New

York, Albany, and East New Jersey was not difficult, and the interchange of visits and staple products was a fairly common occurrence. Similarly West New Jersey, Pennsylvania, and Delaware were in close connection, for the waters of the Delaware river made intercommunication an essential part of the life of the middle colonies. Maryland and Virginia stood in a similar relationship, for the wide Chesapeake formed a natural highway for the traveller, and offered a convenient means of commercial intercourse. From Virginia to North Carolina was a journey fraught with difficulties, while South Carolina, far off to the southward, was more remote from the northern colonies than it was from the West Indies, with which it stood on terms of close commercial fellowship.

Within its own environment, each colony, settled at different times and under different circumstances, was working out its own destiny with little regard for the others. Each had its own problems to solve, which absorbed the time and attention of its people, and inevitably strong sentiments of individualism and particularism tended to *dominate* its actions. These sentiments were *strengthened* by intercolonial rivalries and

disputes which manifested themselves during the greater part of the colonial era.

Boundary difficulties began with the granting of charters to Maryland and Pennsylvania and continued to create friction among the colonies for more than a century. Between Maryland and Virginia, Maryland and Pennsylvania, Pennsylvania and New York, the trouble first appeared, while Massachusetts was at one time or another in serious conflict with New Hampshire, Rhode Island, and Connecticut. New York was a long time settling its boundary line with New England, and after much bickering Virginia and North Carolina reached a satisfactory settlement, and the world obtained a delightful piece of colonial literature, William Byrd's *History of the Dividing Line*, first published in 1841. In nearly every instance the home government was called in to appoint a commission and settle the difficulty. The colonies also discriminated against each other in the imposition of customs dues, which led to retaliatory legislation that sometimes developed into petty commercial wars. There was no common currency in the colonies, and each had its own standards of value, which prevented ready commercial transactions, particularly after the adoption of

bills of credit and the consequent depreciation of paper currency. Massachusetts on one occasion passed a law excluding all New Hampshire paper money from the colony, and Penn early sent a protest to England against certain laws of Maryland imposing duties on commodities from Pennsylvania.

The tendency of the larger colonies to assume an overbearing attitude toward their weaker neighbors found illustration in the seeming desire of Massachusetts and Connecticut to eliminate Rhode Island, as they had already done Plymouth and New Haven, and in the determination of New York to checkmate the attempt of New Jersey to obtain independent commercial privileges. Pennsylvania was none too gracious toward Delaware, and Virginia viewed with scorn the settlers of North Carolina as vagabonds and pirates. The yoking of New York and New Jersey, and Massachusetts and New Hampshire under common governors led to determined efforts at separation, which when effected left the colonies farther apart than ever. Between the south and the north there prevailed little harmony of sentiment, for the Virginians early displayed disdain for the "Saints of New England," whom they disliked for their pettiness in trade and shrewd-

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ness even to sharpness in business dealings. As upholders of aristocratic standards, the royal prerogative, and the Anglican church, the southerners had little tolerance for the "peculiarities" of the Quakers or the democratic independency of the Puritans. Indeed, apart from their common origin as Englishmen and common home on the colonial seaboard, the scattered colonists in America possessed little that was favorable to unity of action or community of thought.

Nevertheless as the settlements grew with the increase of years forces were at work breaking down the isolation and bringing the colonists nearer together. Though increase of population and the filling up of the unoccupied areas inevitably brought the boundary questions to a head, they gave opportunities of more frequent contact and consequent understanding. Intercolonial migration, which began on a large scale after the turn of the seventeenth century, carried thousands of colonists from the northern and middle colonies southward. The Connecticut settler was seemingly a wanderer by instinct, while German Palatine, French Huguenot, and Scots-Irish rarely remained in the place of their first landing. *The Germans moved from New York*

into Pennsylvania and on to the mountain valleys of Maryland and Virginia, the French from the coast to the interior of Virginia and South Carolina; while in that famous exodus of the Protestant inhabitants of Ulster county, Ireland, in which it is estimated that a third of the population crossed the Atlantic, a wandering was begun which did not end with the landing on the colonial coast. The Scots-Irish penetrated to the frontier towns of New England, moved westward into New York, entered Pennsylvania by way of Chester county and pushed back toward the centre of the state. From there many went southward, some remaining with the Germans in Maryland and Virginia, others continuing their journeyings to the Waxhaws in South Carolina. Though many of these wayfarers in search of homes identified themselves with the communities into which they came, others, particularly in the back-countries, inevitably were weakened in their attachment to a locality and became in a sense the denizens of a larger country. Narrow and restricted though the life was of these dwellers in the wilderness, it was freer in its independence of prejudice and the spirit of separatism than was the life of the colonists along the coast.

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Increased facilities for communication came slowly. The early settler had followed buffalo tracts and Indian trails and the paths of the cattle driver and fur trader who preceded him. Clearings were made, ferries provided, fords discovered, bridges built, morasses filled in or covered with corduroy, and gradually roads appeared. From such cities as Boston and Philadelphia comfortable travel was possible in many directions, and connections were made from the Delaware to the head of the Chesapeake very early. Within the settled area of the coast passable highways were built more speedily in the north than in the south, but it was not until the middle of the eighteenth century that a continuous journey from Portsmouth to Philadelphia was made possible. With the back-country connections were late in coming. Not until 1735 were the Berkshires reached; Chesapeake bay was a water unseen by the upper Maryland settlers till after 1740; while in Virginia and the Carolinas the occupied frontier lay apart by itself, and beaten paths and ways for teams and wagons were not opened until nearly the end of the colonial era. Nevertheless each trail, path, road, and highway was a factor promoting colonial intercourse and understanding.

Travel was largely by water. Small vessels, schooners, sloops, shallops, and wherries passed up and down the navigable rivers, ventured around Cape Cod and through Long Island Sound, furrowed the waters of the Delaware and the Chesapeake, and found their way through the inland estuaries of the Carolinas. As trade increased and the need of transportation became pressing, larger vessels were built, which acting in conjunction with the land routes distributed the staple products of New England, New York, and Pennsylvania, and gave rise to a coasting trade, which became a very real factor in furthering intercolonial migration and communication. Each river town of New England became a builder of small ships, in which the New Englanders passed from colony to colony, bartering their provisions and fish for tobacco, grain, and furs. These small maritime journeys, these trading ventures from port to port, distributing colonial staples and scattering news of events happening within the colonies or in England, drew the colonies into a closer relationship and broadened the knowledge which each had of the others.

Postal facilities followed the opening of roads, but remained for many years irregu-

lar and uncertain. Mail service had been established by act of parliament in 1710, but even at an earlier period local enterprise had provided a means for the despatch of letters from colony to colony as far south as Williamsburg, the seat of government of Virginia. But the postage rates were almost prohibitive and the time required to go from Boston to Philadelphia was never less than a week. It took Governor Pownall seven days to go from Boston to Elizabeth. Newspapers appeared first with the *Boston News Letter* in 1704 and the *Boston Gazette* in 1719, and by 1768 there were six Boston newspapers, each of which consisted of a single leaf printed on both sides, or of two leaves printed on three or more often four sides. The editions were small and the circulation local, and the influence of newspapers upon the spread of postal conveniences was for years very slight. Many of the colonies went for weeks and months without outside news of any kind, cut off from the world at large, absorbed in their own affairs. Connecticut got its news from Boston, North Carolina from Virginia, and news from England, the Continent, and the West Indies was more frequently received than news of the colonies by each other. *The disorganized condition of the postal*

service appeared most conspicuously during the French and Indian war. Abercrombie wrote from New York in 1758 that six weeks after he had despatched a letter to Montgomery in South Carolina he had received no reply, and Forbes in western Pennsylvania could complain that he received news so late that it was "of so old a date there is no trusting of it." Littelton of South Carolina having received on August 2 a letter sent from Philadelphia on May 8, wrote in exasperation to Pitt that "some new regulations in the post throughout the provinces" were "highly necessary for the king's service."

Thus at the beginning of the fourth inter-colonial war, the colonies remained widely separated, insular in their experiences and prejudices, ignorant in large measure of each other and tenacious of the powers which each had won in its struggle with the royal prerogative. Thomas Banister, a merchant of Boston, had declared in 1715, that the notion of the plantations ever setting up for themselves was wild and ungrounded. "Different schemes, notions, customs, and manners," he said, "will forever divide them from one another and unite them to the crown. *He that will be at the trouble of reviewing*

only the religion of the continent, where he will find [adherents] of every denomination, from the earliest Gnostick to the modern Prophet, and consider how tenacious each sect is, will never form any idea of a combination to the prejudice of the land of our forefathers." And fifty years later, Franklin, knowing the variety of governments, laws, religions, staple products, habits and ways of life, and degrees of intellectual attainment, could affirm that "however necessary a union of the colonies had long been for their common defense, they had never been able to effect such union among themselves." Until the days of the Stamp Act the energies of the colonies were largely concentrated on the individual advantages which each might obtain in its struggle with the royal authority, and they rarely looked beyond their own boundaries in thinking of the future, or allowed the higher ideal of colonial union to encroach upon the immediate purpose in hand.

Nevertheless, efforts at union had been made in the seventeenth and early eighteenth centuries. Such efforts were due in nearly every case to outside influences and were not the result of any spontaneous desire for *union arising in America*. New England,

with homogeneous population and common religious organization and purpose, was the first to experiment with a confederation for mutual protection and support. Fearing the outcome of the war in England, in which should the royal cause triumph its own autonomy might be endangered, and needing protection against the French, Dutch, and Indians, who were threatening them on the north and west, the New England colonies banded together in 1643. Maine was not included because of the distance, and Rhode Island was denied admission because it was deemed a factious colony. The experiment was not very successful, and is chiefly interesting as an attempt at a loose confederation, which was wrecked by the overbearing attitude of Massachusetts, and by the new situation which followed the restoration of the Stuarts in 1660, the capture of New Amsterdam, and the absorption of New Haven by Connecticut. Frowned on as a useless contrivance and a needless expense the confederation came to an end in 1684, when Massachusetts lost its charter, at the very time when the home authorities themselves were planning a larger scheme of union to cover in part the same territory.

Early in its career the Lords of Trade had

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become convinced that from the standpoint of trade and commerce and military defence an increase in the number of colonies in America was unwise, and that even those which existed were too scattered and weak to offer a successful resistance in case of attack. The committee therefore proposed and eventually carried out a scheme for the union of all the colonies north of Maryland in a single dominion under a single governor and council, in which there should be no representative assembly of the people. For the execution of this scheme the way had been prepared by Edward Randolph, the man to whom more than to anyone else Massachusetts owed the loss of her charter, and in May, 1686, Joseph Dudley became the president. But he was soon superseded by Andros, who was sent out as governor, arriving in December. The territory, at first, covered Maine, New Hampshire, and Massachusetts, and the King's Province west of Narragansett bay. In 1686 Plymouth and Rhode Island were added, in 1687 Connecticut, in 1688 New York and New Jersey, and according to the original plan Pennsylvania, Maryland, Carolina, and the Bahamas were to be deprived of their *charters* and joined to the enlarged dominion.

As Bermuda, Virginia, and the West Indian colonies were already royal, the successful consummation of this plan would have royalized all the colonies and have laid the foundations for a symmetrical colonial empire in the west.

The union provided for in the Dominion of New England stands in striking contrast with the league set up in 1643. Instead of preserving the independence of the several colonies, the new system abolished all local autonomy, reduced the annexed colonies to the position of administrative districts, with rights of delegation to the common council at Boston, and retained under central control all judicial, military, and commercial interests. For nearly three years the king ruled through his governor over a single royal province extending from Nova Scotia to the Delaware. Pennsylvania was exempted by special Stuart intervention, and Maryland, the Carolinas, and the Bahamas were never proceeded against because of time and distance. With the fall of James II in 1689 the dominion broke apart into its original elements, leaving no trace behind, except the legend of the Charter Oak in Connecticut, where the charter of the colony was *in popular repute supposed to have been*

concealed, and a bitter hostility in Massachusetts for the king and his supporters, and for the Anglican church, which in 1686 had been set up in Boston, with the town house for its sanctuary and an attendance of three or four hundred members as a witness to its prominence. To the list of enemies of that colony, which already included the names of Gorges and Mason, were added those of Randolph, Dudley, Andros, and all the Stuarts, and there they have remained to this day.

With the opening of the war between France and the Grand Alliance, to which England became a party with the accession of William III, questions of defence against the French in America became a matter of serious concern, particularly to the northern colonies. In 1690, at the suggestion of Massachusetts, an intercolonial congress was held in New York, to which delegates came from Massachusetts, Plymouth, Connecticut, and New York, and letters were sent from Rhode Island, Maryland, and Virginia promising aid and support in any expedition that the congress might undertake. An attack upon Montreal was planned, and the combined forces actually reached Lake Champlain. *But there they halted, discussions*

arose, sickness hindered the enterprise, and in the end practically nothing was accomplished. Coöperative colonial action seemed unobtainable, and so lukewarm did the colonists appear that Governor Fletcher of New York, who had also been commissioned governor of Pennsylvania and New Jersey and military head of Connecticut, and had tried in vain to arrange another meeting in 1693, could report that the "small colonies on this main" were "as much divided in their interests and affection as Christian and Turk."

The need of action became so imperative that complaint after complaint was sent to England from men in America in many walks of life. In 1696 William Penn drafted a "brief and plain scheme" for a yearly congress, to be composed of twenty deputies from ten colonies, to meet in New York under the presidency of the royal governor there, and "to debate and resolve of such measures as are most advisable for their better understanding and the public tranquillity and safety." Others, notably traders and merchants, threatened with the loss of their fishing and their commerce in furs, *masts*, timber, and peltry, begged for the *establishment* of a common government.

under a single head, which, while preserving the "civil rights, properties, and customs" of the colonists, would protect the English settlements and allay the apprehensions and discouragements due to the French peril. A body of New England traders urged that a governor be sent over with 1000 men, arms and ammunition, cannon and other ordnance, four frigates, and a fire-ship. Recommendations for bringing the colonies under a single military head had been made by Roman Catholic priests in Maryland in 1689, the same idea was repeated by Governor Nicholson of Virginia in 1692, and the merchants in particular urged a union under one governor with free trade between the provinces. Livingston in 1701 and Coxe in 1722 emphasized the plan and the Board of Trade was in entire sympathy with the idea and advocated it strenuously.

The board failing to win the support of parliament during the years from 1701 to 1715 renewed its efforts in 1722 and recommended that the proprietary and charter governments should be resumed by the crown "either by purchase, agreement, or otherwise," and a single government be established whereby alone the respect of the *Indians* could be maintained, trade promoted,

quit-rents gathered, and the woods protected. Each colony was to retain its governor and assembly, but over all was to be placed a governor general with a fixed salary paid by the crown and a council composed of delegates from each colony. Had a competent person been found, who would have accepted the post, it is probable that the experiment would have been tried, but the Earl of Stair, to whom the position was offered, refused it and the board did not pursue the matter further, though it never fully abandoned the scheme. It substituted methods of persuasion and processes of law, and having succeeded with Carolina and the Bahamas, attempted to win over Connecticut and Rhode Island. But these colonies refused to surrender their charters, Connecticut, in a letter very shrewdly written, reminding the Whig government that "the vacating and taking away of charters of incorporation, without just cause of forfeiture" was characteristic of reigns like that of the late King James, "when all corporations and charters were crush't and trampled under and the king's subjects made vassals and slaves in defiance of Magna Charta and the liberties of a British subject." Such a remark, like other similar hints in letters from these

colonies, was to the Whigs "a tender plot and likely to be thought of at home."

Other suggestions were advanced at this period, either privately or in pamphlets, by various persons in England and America, for the subject was very much in the thoughts of men at this time. Dinwiddie of Virginia advocated two confederacies. Rev. Richard Peters of Pennsylvania outlined a fourfold division with an annual committee of union for each, a system of interdivisional correspondence, and a single "union" regiment of thirteen companies commanded by officers appointed by the king and paid from internal duties levied "on such things as are in most general use." This project, like those of Hutchinson of Massachusetts and Weare of New Hampshire, both of whom, with Peters, were members of the later Albany conference of 1754, remained unpublished and only serve to show what was passing in men's minds. Occasional conferences were held, between 1740 and 1750, at New York or Albany, but they were scantily attended and had no wider purpose than to arrange satisfactory relations with the Indians.

The approach of war with France after 1750 brought the whole matter of colonial *defence* prominently to the front. The royal

governors and the Board of Trade looked on the future with deep misgivings. The French troops in America, commanded by a single head, were able to act promptly and with effect, while the English colonies seemed "sunk into a profound lethargy and, resigned to stupidity and slumbering, appeared insensible to the threatening danger." The conflicts which the assemblies were carrying on with the governors for the control of the government served to blind them to the menace of French attack, and they used every attempt at military defence as an opportunity to gain some new advantage at the expense of the crown. No troops could be raised or money appropriated except after prolonged debate and acrimonious discussion, and obstructions often trivial were thrown in the way of every scheme for co-operation. The New England colonies were angered at the "total inactivity and supineness" of Pennsylvania, Maryland, and North Carolina, while all watched each other with a jealous eye, fearing lest by chance one should do more than its legitimate share. "I have learnt," wrote Governor Sharpe of Maryland, "not to entertain very sanguine hopes of the resolutions of American assemblies. As often as they have been convened,

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urged, and intreated to aid each other in defending His Majesty's territories and their own properties, so often almost have they as it were unanimously refused to provide against the dangers that threaten them."

Similar complaints from other governors had an important influence upon the authorities at home, who at this crisis made a new effort to provide for concerted action. In August, 1753, Secretary Holdernessee warned the governors of the approaching conflict, and in September the Board of Trade instructed them to call a conference at Albany for the purpose of renewing and strengthening the "ancient covenant chain" with the Six Nations. In a later letter to Lieutenant Governor DeLancey of New York, who was to be the presiding officer, the board, believing that the colonies were already convinced of the necessity of a "general union of strength and interest," urged that the opportunity be improved for the drafting of a plan of union, which could never be effected "in the separte and divided state of the colony's without some general congress." At the same time, acting under instructions from the secretary of state, the *board set about drafting a plan of its own.*

On June 19, 1754, there met in the court-house at Albany twenty-four delegates, from all the colonies except New Jersey, Virginia, the Carolinas, and Georgia. Virginia and the Carolinas wished to be considered present, though circumstances prevented them from sending representatives. Indian questions having first been taken up and partly settled, a motion was made on June 24 that the commissioners deliver their opinion whether a union of all the colonies was not absolutely necessary for their security and defence. This motion was passed unanimously, and a committee was appointed to prepare and receive plans and digest them into one general plan for the inspection of the conference. This plan as finally perfected provided for a president general appointed by the crown and a council chosen by the assemblies to meet yearly at Philadelphia, with power over Indian affairs, new settlements, military and naval affairs, the making of laws and levying of taxes for these purposes, the former of which were to be transmitted to England for the royal approval. Thus the scheme combined the rights of the colonies with a federal control over certain forms of taxation and an ultimate royal approval of the laws adopted by the new council. Adopted

by the conference on July 10 the plan was presented to the individual colonies, as none of the delegates except those of Massachusetts had been given adequate powers. By them it was unanimously rejected, Connecticut deeming it "a very extraordinary thing and against the rights and privileges of Englishmen." Governor Shirley afterward wrote that the commissioners had no hope that the recommendation would have any effect, nor did he believe that any proper plan could be formed in which the governments would unite, because "their different constitutions, situations, circumstances, and tempers" would prove "an invincible obstacle to their agreement upon any one plan in every article, or if they should ever happen to agree upon one, to their duly carrying it into execution."

Rejection by the colonies decided the fate of the Albany scheme. It was never submitted officially either to the Board of Trade or to parliament. That it would have been rejected also in England, had it met with favor in America, is probable, as it provided for a political union instead of the military union which the Board of Trade desired and which became the basis of the plan which the board itself drafted

and submitted to the king on August 9. The board was seemingly afraid of a strong and efficient political union in America. It may have thought that the colonies would thereby get beyond the control of the home authorities. If individual colonies had already shown themselves impatient of dependence on the British crown, what might not all the colonies accomplish, should they act together?

CHAPTER X

EVENTS LEADING TO THE STAMP ACT CONGRESS

UNION, for either political or military purposes, had proved impossible of attainment in the year 1754, when the separatist tendencies were too strong to be overcome by any common interest which had manifested itself up to that time. Common action in coöperation with England was too slender a motive, even when it involved the security of their lives and property, to draw the colonists from their individual struggles against England in behalf of their so-called rights as Englishmen. Only when under changed conditions England herself became the common object of the resentment of the colonists, was a passion aroused sufficiently powerful to master the suspicions and jealousies that had hitherto held sway. From the Albany conference to the congress held at New York to protest against the Stamp Act, we pass through a series of events of first importance in American history, in that they mark the turning of the current of colonial sentiment and its flowing, very

slightly at first, in the opposite direction. When this result has been accomplished we have reached the end of the colonial era properly so-called.

During the war between England and France in America, commonly known as the French and Indian war, each colony manifested with unmistakable clearness its strength and weakness and the motive that influenced its policy. New England displayed public spirit, voted money and men liberally, and coöperated zealously in military undertakings. Massachusetts, under such tactful men as Shirley and Pownall, was proud of its position as leader. Connecticut and Rhode Island acted with readiness and were loyal to the cause. New Hampshire, pleading poverty, was chary of expenditure and seemed without interest in the war. The assembly of New York, while appropriating money, quarrelled with the governor over its use. But when once the assembly had made good its claims, it acted more willingly and with a better spirit. New Jersey proved eager and willing, was less jealous of its neighbors, and showed, as Governor Morris wrote "a due regard both for the rights of government and the liberties of the people." Pennsylvania, on the other

hand, spent the seven years in quarrelling with governor and proprietary, and the members of the assembly preferred to see their province invaded by the enemy rather than to carry out the royal and proprietary instructions. By their insistence on the retention of all authority, and their stubbornness in prolonging debate and throwing responsibility for failure on the shoulders of the governor, they impeded military operations till even the kindly Forbes, conducting the campaign on the western frontier, could write in exasperation that their tardy proceedings would greatly distress the active operations which he had planned. Maryland as well preferred to leave the colony defenceless rather than yield on points in dispute, and during the last five years contributed very little to the cause. The trouble in both Pennsylvania and Maryland was in no small part due to proprietary interference and demands, but the result was incompetent soldiers, inadequate militia laws, and extreme parsimony in the furnishing of funds.

The southern colonies coöperated only to a very small extent. In Virginia at first the talk was all of the rights of Englishmen, and the assembly so guarded the people that *only vagrants* could be enlisted for service

outside the colony. There seemed little loyalty to the military cause, the best colonists would not enlist, desertions were frequent, and it was not until the later years that any sympathy or liberality was displayed. As if ashamed of her record, Virginia finally awoke to her obligations and toward the end voted money freely, compensating in large measure for the earlier neglect. In North Carolina there was the same legislative obstruction, due to factional disputes and conflicts with the governor, often over most trivial matters. Conditions were at best unfavorable, drafting was disliked, and the laws, better in the plan than in the execution, were not carried out. South Carolina, the assembly of which was practically supreme, showed a fine record at the opening of the war but later confined itself to the task of defending its own frontier. Georgia gave little military assistance. The poverty of the colony was such that all expenses of government had to be met by the crown, and, as the assembly said, their abilities were not equal to their inclinations.

Thus the events of the French and Indian war did little to advance the cause of union. *Despite the coöperation of many colonies in a common military undertaking, which, it*

may be, smoothed the way to an eventual understanding, the dislike and even the enmity of colony for colony were as great in 1763 as in 1750, while the absorption of each in its own affairs was as profound as at any time in its history. Few periods of the eighteenth century are more important for the study of constitutional progress in the individual colonies than is that from 1756 to 1763, when questions of money, militia, militia laws, drafts, quotas, length of service, and the standing of provincial officers and levies was fought out in nearly every assembly. Many of these questions involved relations with the crown and the commanding officers in America, but others concerned neighboring colonies and the mutual welfare. All indicated the presence everywhere of an excessive individualism that rendered the creation of a political union, based upon the principle of a common nationality, seemingly a remote possibility.

Furthermore the common struggle against France did nothing to strengthen the feeling of loyalty for Great Britain. The friction which resulted from the exasperating system, whereby each colony furnished its own quotas of men and money, was not overcome by the *large grants*, made by parliament from 1758

to 1763 and amounting to more than a million pounds, to recompense the colonies for their outlay. The common endurance of hardships, which might have served, under other circumstances, to allay the mutual suspicions of regular and provincial soldiers, only widened the breach between them, because of the contempt which each felt for the other. The British commanders deemed the colonial militia capricious and unsteady and called them *canaille* and cowards, while the colonials criticised with equal severity the British methods of war, and said that the failures of the earlier years were entirely due to British blunders. Troubles arose over the rank of colonial officers, which ended in dissatisfaction and discontent, and interminable difficulties were encountered in determining periods of service, the quartering of troops, and the obtaining of forage and supplies. Of all the colonies, South Carolina alone adopted the British rules and discipline of war.

One aspect of the period might well have given the British statesmen food for thought, had their minds been open to new ideas regarding a colonial policy. The royal colonies, where England expected to find loyalty and support, were as a rule the most difficult for the commanders in America to deal with,

while the New England colonies, which were historically and economically most antagonistic to the British system of control, were generally willing to bear their legitimate burden without demur. The royal and proprietary colonies were very slow to coöperate for the common defense or for the defense of their neighbors, and lent their resources, often very unwillingly, to the promotion of the common good. They expected England to carry out her part of the mutual obligation of protecting them against their enemies, but were wholly averse to fulfilling their part of the contract by offering obedience in return. England might have learned the lesson that this fact taught and have realized that the best and most tractable of the colonies were those which possessed the greatest amount of self-government and were most at peace within themselves. But the British view of colonial dependence admitted of no modification, and the idea of a colony, autonomous and commercially independent and at the same time loyal and coöperative and a strength to the mother country, never seriously entered a British mind. At no time was the full letter of the British policy more vigorously insisted upon than during *the twenty years from 1763 to 1783.*

Two incidents took place during the last years of the war that brought prominently to the front the sentiment which prevailed in certain quarters toward the British government. The persistent trade which the colonists were carrying on with the enemy aroused the British authorities to attempt its suppression. They determined to enforce the laws of trade, particularly the Molasses Act of 1733, and in so doing called on the navy to coöperate, at the same time instructing the customs officers to employ "writs of assistance," enabling them to search anywhere they thought best for the purpose of finding concealed goods, chiefly the illegally imported products of the French and Dutch West Indies. The colonists declared these writs illegal, and in a famous trial before the superior court of Boston, James Otis declaimed against the acts of trade as oppressive and contrary to natural equity. Two years later, the young Patrick Henry, defending the law of Virginia in the "two penny" case, brought by the clergy to recover their losses of salary, due to payment in depreciated currency rather than in tobacco as had previously been the rule, declared in a fervid oratorical effort, plainly designed to sway public opinion and to increase his

own popularity, that the King of England in disallowing the act had degenerated into a tyrant. But these speeches were premature. The time had not come when utterances of this kind could sway public sentiment. Significant as they were in anticipating the future, they fell on a time when the colonists were well aware of the need of continued British protection, and understood that separation from Great Britain would mean attack and possible annexation by either France or Spain. The colonies were not prepared to face the issue of providing for the naval and military defense of their coast and frontier. England was still necessary to their existence.

But the peace of Paris, signed on February 10, 1763, marked a great turning point in the position of the colonies and of their relations with the mother country. The French were removed from America on the north and west and the Spanish from the Floridas on the south. With the single exception of the city of New Orleans, the frontier lay open to the Mississippi and the Gulf of Mexico. Danger from outside attack was averted and expansion toward the west and south was unobstructed by any foreign power. No less important was the effect of the peace upon the

imperial ambitions of Great Britain. In retaining Canada and returning Guadeloupe and St. Lucia to France, she completely reversed her opinion regarding the economic superiority of the West Indies, and henceforth took the ground that a great area of territory capable of receiving a growing population was more valuable as a market for her manufactures than was a group of islands, the importance of which lay in their supply of tropical products. To protect and preserve the new continental territories became from this time the dominant purpose of the British ministry, and inevitably demanded the recasting of the imperial policy to meet the new situation.

But in satisfying the demands of the new imperialism no change was made in the fundamental principles of the commercial policy. The object was the readjustment of the old, not the adoption of a new attitude toward the colonies. The latter must still remain in dependence on the mother country and obedient to her authority. No recognition could be given to the independence already won; on the contrary every effort must be made to restore the full strength of the royal prerogative. More important still, the trade laws must be enforced, and if necessary supple-

mented by additional legislation; and so heavy had become the debt to the British tax payer, and so untrustworthy the system of quotas and requisitions employed in the colonies during the recent war, that new measures must be taken by the British government itself to meet the expenses for protection in the future. Furthermore, the newly acquired western territory must be dealt with in the interest, not only of new settlers, but of the Indians also, who occupied it, and Canada with its French Roman Catholic population must be handled with such discretion as to transform it into loyal British territory. The problems that the statesmen of England were called upon to solve at this juncture were such as to demand high qualities of statesmanship. Unfortunately the leaders who faced these problems were, with one or two exceptions, men of little vision, loyal to the traditions of the past, and, as far as they were able to rise above the allurements of party intrigue and the thirst for office, were blinded by the glamour of a self-sufficing empire.

On October 7, 1763, the king issued a proclamation, providing for the government of Canada, the Floridas, and Grenada, and *setting aside the western territory as a*

temporary reservation for the Indians. In so doing there appears to have been no deliberate intention of forbidding colonial settlement west of the Alleghanies, but an Indian war, led by Pontiac, a chief of the Ottawas, and due to the encroachment and unscrupulous conduct of colonial traders, demanded the adoption of an imperial policy of Indian protection. The control of Indian affairs must be taken out of the hands of the colonies, Indian rights must be respected, and Indian lands and trade must be placed under the direct supervision of Great Britain. An elaborate scheme of Indian control was considered and in part carried out, but in the end it proved too expensive for the government to inaugurate in the existing state of its finances, and all attempts to obtain parliamentary support for the scheme ended in failure. The management of Indian trade after 1768 fell back into the hands of the colonies, the Illinois country became a land of disorder, frequented by fur traders and colonists with land and colonization schemes to promote, and was lost to sight in the greater issues raised by the discontented and rebellious colonists in the east.

To meet the new situation the aid of parliament had now become necessary and

inevitable. The idea of calling on the legislative body of the kingdom to aid the royal prerogative in America was not new. It had been urged by Privy Council, secretary of state, Board of Trade, colonial governors and even agents, and by British commanders and officers in the late war. As early as 1706, Secretary Hedges had declared that if "the provinces do not comply in what they at present refuse, they cannot expect but a remedy will be applied by parliament in reasonable matters." In 1729, Newcastle had threatened the obstinate assembly of Massachusetts with parliamentary intervention, and in 1735 the Privy Council had attempted in similar manner to bring the Jamaica assembly to terms. The right of parliament to step in where the royal prerogative was proving insufficient was perfectly understood in America, and no denial of its competency was made in the period before 1763. Naturally, the colonists were anxious to avoid such a contingency, as when Connecticut feared that parliament might inquire too closely into the working of her charter and the Jamaica assembly begged of the home government that parliament might not be brought into the controversy; but they did not declare against

parliamentary authority, concerning acts of trade, regulative measures, or revenue bills, until after the issues of 1764 and 1765 had been raised.

When, therefore, in 1763 George Grenville became head of the ministry and faced the critical position confronting him, he turned to parliament for the necessary legislation. He made careful inquiries into the operation of the acts of trade and obtained elaborate reports from the Treasury, the commissioners of customs, and the colonial governors, and upon the information thus received framed the bill which parliament passed in 1764, commonly known as the Sugar Act, but which in its entirety embraced at least three distinct propositions. First, to prevent illegal trading by enlarging the powers of the admiralty courts, increasing the efficiency of the customs service in America, and employing the ships and officers of the navy to aid in enforcing the laws. Secondly, to encourage the colonies by repealing duties and granting bounties so as to enlarge and relieve colonial trade. Thirdly, to raise a revenue in America by reviving and reënfencing with some modifications *the Molasses Act of 1733*. In this important measure the British government declared

for the first time its purpose of obtaining a revenue from the colonies, but it accompanied that declaration with the quieting statement that the money thus raised should be expended for the protection of the colonies themselves. Such protection was to involve the maintenance of a standing army of ten thousand men, a proposal sure to arouse anger and apprehension in America.

The colonists saw in this measure a menace to the independence which they had already won, and although the measure was never designed as a check upon colonial self-government, as British statesmen construed that term, it was viewed in America as an oppressive and "unconstitutional" interference with their rights, rights it may be noticed which had been illegally usurped and never acknowledged by the authorities in England. Sympathetic though we may be to the growth of constitutional democracy and independence in America, we must nevertheless recognize the fact that English statesmen denied the legality of the very powers which the colonists declared were now interfered with, and asserted to the end that no colonial assembly possessed rights and privileges analogous and coequal to those of the House of Commons in Great Britain. The term

"unconstitutional," so often on the lips of colonial orators, had no meaning to an English statesman or departmental official, and was only significant to the men in America, who for half a century had been acquiring a "constitution" by robbing the crown of its prerogatives. Yet in this method of procedure America did not stand alone. England herself had built up her existing constitutional organization in precisely the same way, but the parallel passed unnoticed so far as the British authorities were concerned.

It soon became evident that the act of 1764 would raise a very inadequate revenue for the purpose in hand. According to the most liberal estimate the amount would not exceed one-seventh of the sum required to maintain an army in America, quite apart from the cost of the Indian establishment which the Board of Trade desired to create. Grenville was fully aware of the situation and had already in hand the further suggestion of a colonial stamp tax. This suggestion did not originate with him. It had already been made half a dozen times before, and in 1763 Henry McCulloh, who had held many posts in the colonies, notably in South Carolina, and was familiar with aspects of the financial situation in America, drafted a

complete statement of such a scheme and presented it to Grenville. There is reason to believe that the latter took it more or less ready made from McCulloh's hand. In February, 1765, he introduced the measure into the House of Commons, where, after considerable debate, it was passed by a vote of 205 to 49. In the Lords it was passed without a division. By this act stamps were to be affixed to all legal and commercial documents in the colonies, to pamphlets, almanacs, newspapers, college diplomas, grants of office, licenses, bonds, grants of land, playing cards, and dice. The revenue thus gained was to be used only for the defence of the colonies and, added to that which would accrue from the act of 1764, was estimated at something less than half the cost of the army in America, the remainder to be secured by requisition among the colonies themselves.

The measures of 1764 and 1765 were the most conspicuous of many efforts made during these years to increase British control in America and to limit the independence which the colonists had won for themselves. Since 1752 Board of Trade, Privy Council, secretary of state, and the Treasury *had all been endeavoring to check the aggressive*

advance of the colonial assemblies, and to recover control of trade and revenue which had never been voluntarily resigned. But the war had forced a postponement of these efforts, and it was not until after 1763 that they could be resumed. Governors' instructions were made more mandatory, colonial laws were subjected to a sharper scrutiny, officials in America were selected with greater care, and the administrative machinery was tightened in many of its parts. The old law of 1729 requiring all mariners in America as well as England to contribute sixpence a month toward the maintenance of Greenwich hospital was revived and a special collector sent to America for its enforcement. As early as 1750 the bishop of London had urged the establishment of bishops in America, and the colonists, particularly the Puritans of New England, viewed with dread the approaching ascendancy of the Episcopal organization. In 1764 proposals were submitted for protecting British merchants by act of parliament against the disordered condition of colonial currency, and in the same year a single court of *vice admiralty* was provided, to sit in Halifax and to hear appeals from each of the admiralty courts of the colonies. At the same time a searching

examination of the fee system in the colonies was begun and continued for a number of years, with the intention of regulating financial practices in public offices in America. During the years 1765 and 1766 commanders of the royal navy, acting as customs officers, made many seizures for illicit trading, and so efficiently was the new Sugar Act enforced that the revenue therefrom, which had been less than £1000 a year under the old Molasses Act, rose to £25,000. The extension of the Mutiny Act to America and the new provisions regarding the billeting and quartering of troops served as an added grievance, although efforts were made to carry out the measure with a reasonable respect for the susceptibilities of the inhabitants.

At the time of the passage of the Stamp Act many of these measures had hardly taken effect in America, and could have had but little influence in rousing the popular discontent. Yet others, particularly those concerning illegal trade and the encroachments of the assemblies, must have aroused the fear of the colonists that an attempt was to be made in a manner more aggressive and systematic than ever before to restore to the crown the powers that it legally possessed and which had now become the liberties of

America. The retention of these liberties was vital to the life and prosperity of the colonies, and they viewed the entrance of parliament into the struggle with an apprehension born of uncertainty as to what it might do and how efficiently it might act. The two great acts of parliament became, therefore, the object of colonial resistance and the chief cause of popular protest and revolt.

The colonial assemblies had already issued addresses and memorials against the Sugar Act as an evil device, harmful to the colonies and threatening their prosperity. Regarding the proposed Stamp Act, information of which had been sent by Grenville to America before the introduction of the bill, they took higher ground and in the debates of the year 1764 began a searching inquiry into the whole question of the constitutional rights of parliament, some of the assemblies already taking the position that parliament could not tax them at all or even legislate for them in any capacity. But the restlessness of 1764 was transformed into action in 1765, when the news came to America that the measure had been passed and that their protests and petitions had been dismissed *without a hearing*. For the moment the *leaders hesitated*, for it seemed a dangerous

thing to defy the parliament of Great Britain, but as one section after another became alive to the seriousness of the situation, the excitement spread and the spirit of resistance was aroused. Virginia, in formal resolutions, carried through with difficulty and after long debate by the fiery eloquence of Patrick Henry, led the way, and Massachusetts followed, on June 8, by adopting a motion to despatch a circular letter to all the colonies, inviting them to send delegates to a congress to be held at New York the following October.

But such temperate method of discussion and protest did not satisfy the more excitable and uncontrolled elements in America. Inflamed by pamphleteers and popular orators and stirred by a sense of wrong and injustice, they organized for the purpose of defeating the parliamentary measures. To nullify the act of 1764 non-importation agreements were made and steps taken for the encouragement of domestic manufactures. To bring to naught the act of 1765, mobs gathered in the various cities and compelled those who had accepted posts as stamp distributors to resign their positions. Spurred by success, notably in Boston, they committed *deeds of violence*, the inevitable accompani-

ments of a revolution, and destroyed the house of Thomas Hutchinson in Boston and of the loyalist Moffatt in Newport. In the south, where less violence was committed, the same excitement reigned and demonstrations were made against both collectors and stamps. Everywhere a determination was manifest to prevent the execution of the act, either by destroying the stamps themselves, which was done in many cases, or by suspending the issue of newspapers, closing the courts, and discontinuing such forms of business and trade as required the use of stamped paper. In the end the Stamp Act proved an entire failure, and the government must have lost considerably by the unfortunate venture.

More important for the future of America than this display of popular resistance was the gathering, on October 7, 1765, of twenty seven delegates at New York, from all the colonies except New Hampshire, Virginia, North Carolina, and Georgia, in a conference, which is sometimes called the first American Congress. This body, composed in a majority of cases of men chosen by their respective assemblies, stands as the first independent meeting of the colonists themselves for the purpose of mutual coöperation and

support. In the face of the threatened extension of British imperial authority the colonists put aside for the moment their differences and in the person of some of their ablest leaders met in mutual confidence on common ground to voice a common grievance. In the declaration of rights and grievances and the papers drawn up for presentation to the king, the House of Lords, and the House of Commons, we find the first expression of American sentiment by a body practically representative of all the colonies. United action, which had seemed such a remote contingency only a few years before, had been rendered necessary in the presence of what appeared to be a common danger, and it resulted in the declaration of what also appeared to be a fundamental principle and the only one upon which all might agree. The phrase "natural rights of Englishmen" is vague and meaningless in the history of constitutional development and political philosophy, and deserves to stand with that other equally abused phrase, much on the lips of the colonists at this time, "taxation without representation." Neither had any literal meaning in fact, but as historical influences each became a *phenomenon* of far-reaching significance.

Men have died for a false creed; the colonists fought under the banner of a false philosophy.

The importance of the Stamp Act congress does not lie in the declaration of principles which it enunciated. It lies in the accomplished fact that amid a thousand centrifugal tendencies that were keeping the colonies apart as the inhabitants of thirteen separate communities, there had arisen a conscious purpose of uniting to support a common interest. Premature as it was and almost a mockery in the light of the history of the years that followed, the remark at the congress of Christopher Gadsden, a man whose impulses generally outran his judgment, was in a sense a prophecy. "There ought to be no New England man, no New Yorker, known on this continent, but all of us Americans." The congress marks the end of an era, and inaugurates a period of disturbance, disorder, suffering and war, destined to culminate in armed revolt from British authority, and the eventual overthrow of the power of king and parliament in America.

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